

New York Codes, Rules and Regulations (NYCRR)

Title 19: Department of State

Chapter XIII - Waterfront Revitalization of Coastal Areas and Inland Waterways

19 NYCRR Part 600 - Policies and Procedures

(Statutory authority: Executive Law, §§ 91, 913)

§ 600.1 Authority, intent and purpose.

- (a) This Part is adopted pursuant to section 913 of the Executive Law to implement the provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.
- (b) This Part is intended to provide for State agencies acting in the coastal area and inland waterways the necessary framework for the consideration and application of the State's policies with respect to waterfront revitalization and coastal resources, as contained in article 42 of the Executive Law.
- (c) It was the intention of the Legislature that the preservation, enhancement and utilization of the natural and man-made resources of the State's unique coastal area take place in a coordinated and comprehensive manner to insure the proper balance between those natural resources and the need to accommodate the needs of population growth and economic development. Accordingly, it is the intention of this Part to achieve a balance between economic development and preservation that will permit the beneficial use of coastal and inland waterway resources while preventing the loss of living marine resources and wildlife, diminution of open space areas or public access to the waterfront, shoreline erosion, impairment of scenic beauty, or permanent adverse changes to ecological systems.
- (d) In adopting the Waterfront Revitalization of Coastal Areas and Inland Waterways Act, it was the Legislature's intention that review by State agencies required pursuant to article 42 of the Executive Law, to determine the consistency of proposed actions with the policies of article 42 and with any applicable approved local Waterfront Revitalization Program, be coordinated with and made a part of each agency's existing procedures, including reviews conducted under the State Environmental Quality Review Act (SEQR) (Environmental Conservation Law, article 8). Accordingly, in compliance with article 42, this Part provides a framework which is compatible with and capable of coordination with a State agency's existing review responsibilities under SEQR (6 NYCRR Part 617).

§ 600.2 Definitions.

- (a) Accretion means the gradual and imperceptible accumulation of sand, gravel, or similar material deposited by natural action of water on the shore. This may result from a deposit of such material upon the shore, or by a recession of the water from the shore.

- (b) Actions mean either type I or unlisted actions as defined in SEQR (6 NYCRR 617.2), which are undertaken by State agencies; the term shall not include excluded actions as defined in SEQR (6 NYCRR 617.2) or actions not subject to SEQR pursuant to other provisions of law.
- (c) Agricultural land means land used for agricultural production or used as part of a farm or having the potential to be used for agricultural production. Agricultural lands include lands in agricultural districts, as created under article 25AA of the Agricultural and Markets Law; lands comprised of soils classified in soil group 1, 2, 3, or 4 according to the New York State Department of Agriculture and Markets land classification system; or lands used in agricultural production, as defined in article 25AA of the Agricultural and Markets Law.
- (d) Aquaculture means the farming of aquatic organisms, including fish, mollusks, crustaceans, and aquatic plants. Farming implies some form of intervention in the rearing process to enhance production, such as regular stocking, feeding, protection from predators, etc. Farming also implies ownership of the stock being cultured.
- (e) Best management practices means methods, measures or practices determined to be the most practical and effective in preventing or reducing the amount of pollutants generated by nonpoint sources to a level compatible with water quality standards established pursuant to section 17-0301 of the Environmental Conservation Law. Best management practices include, but are not limited to, structural and nonstructural controls and operation and maintenance procedures. Best management practices can be applied before, during, or after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.
- (f) Boating facility means a business or accessory use that provides docking for boats and encompasses 4,000 square feet or greater of surface waters, as measured by the outermost perimeter of the dock, and is purposefully designed to accommodate six or more boats.
- (g) Certification means a notice prepared and filed by a State agency with the Secretary at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001, which notice shall:
 - (1) contain a statement that is a certification for purposes of article 42 of the Executive Law, the name and address of the State agency and the name and telephone number of a person who can provide further information;
 - (2) briefly state and precisely describe the nature, extent and location of the action; and
 - (3) briefly state the reasons supporting certification.
- (h) Coastal area means the State's coastal waters and the adjacent shorelands, as defined in article 42 of the Executive Law. It includes Lakes Erie and Ontario, the St. Lawrence and Niagara Rivers, the Hudson River south of the Federal dam at Troy, the East River, the Harlem River, the Kill van Kull and Arthur Kill, Long Island Sound and the Atlantic Ocean, and their connecting waterbodies, bays, harbors, shallows and marshes. The specific boundaries of the coastal area are shown on the coastal area map on file in the office of the secretary, as required by section 914(2) of the Executive Law. A copy of the coastal area map has been provided to each State agency with jurisdiction over programs identified by the secretary pursuant to Executive Law, article 42, as having the potential to affect coastal resources.
- (i) Coastal barrier resource area means any one of the designated and mapped areas under the Coastal Barrier Resources Act of 1982, (P.L. 97-348), and any areas designated and mapped under the Coastal Barrier

Improvement Act of 1990 (P.L. 101-591), as administered by the U.S. Fish and Wildlife Service, and any future designations that may occur through amendments to these laws.

- (j) Coastal hazard area means any coastal area included within the erosion hazard area as designated by the New York State Department of Environmental Conservation pursuant to the Coastal Erosion Hazard Areas Act of 1981 (article 34 of the Environmental Conservation Law), and any coastal area included within a V-zone as designated on Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency pursuant to the National Flood Insurance Act of 1968 (P.L. 90-448) and the Flood Disaster Protection Act of 1973 (P.L. 93-234).
- (k) Development, other than existing development, means any construction or other activity which materially changes the use, intensity of use or appearance of land or a structure including any activity which may have a direct and significant impact on coastal waters. Development shall not include ordinary repairs or maintenance or interior alterations to existing structures or traditional agricultural practices. The term shall include division of land into lots, parcels or sites.
- (l) Direct action or directly undertaken action means an action planned and proposed for implementation by a State agency. Direct actions include but are not limited to capital projects, procedure making and policy making.
- (m) Funding means any financial support given by a State agency, including contracts, grants, subsidies, loans or other forms of direct or indirect financial assistance, in connection with a proposed action.
- (n) Historic maritime communities means communities identified in L. 1994, ch. 587, for the purpose of fostering the protection and beneficial enjoyment of the historic and cultural resources associated with maritime activity on Long Island Sound.
- (o) Historic resources means those structures, landscapes, districts, areas or sites, or underwater structures or artifacts which are listed or designated as follows: any historic resource in a Federal or State park established, solely or in part, in order to protect and preserve the resource; any resource on, nominated to be on, or determined eligible to be on the National or State Register of Historic Places; any cultural resource managed by the State Nature and Historic Preserve Trust or the State Natural Heritage Trust; any archaeological resource which is on the inventories of archaeological sites maintained by the State Department of Education or the Office of Parks, Recreation and Historic Preservation; any resource which is a significant component of a heritage area; any locally designated historic or archaeological resources protected by a local law or ordinance.
- (p) Involved agency means a State agency that has jurisdiction by law to fund, approve or directly undertake a given action.
- (q) Local Waterfront Revitalization Program (LWRP) means a comprehensive local management program for the coastal or inland waterway area of a municipality or municipalities acting jointly. The term encompasses the "partial LWRP" which includes a comprehensive treatment of one or more of the Coastal Management Program (CMP) policies for the municipality's entire waterfront revitalization area or a comprehensive treatment of applicable CMP policies for a geographically discrete portion of a municipality's waterfront revitalization area. The secretary may approve an LWRP after the participating municipality develops it and adopts local implementing legislation, and after the LWRP is subject to review by the public and Federal or State agencies. The Federal Office of Ocean and Coastal Resource

Management in the U.S. Department of Commerce's National Oceanic and Atmospheric Administration may approve an LWRP in the coastal area that is submitted by the secretary as a refinement of and means to further implement the CMP at the local government level.

- (r) Long Island Sound means all tidal waters within the Long Island Sound coastal area.
- (s) Long Island Sound coastal area means that portion of the New York State coastal area beginning at the Connecticut-New York State border and extending south to the intersection of the State coastal area boundary with the Bruckner Expressway, resuming the State coastal boundary south to its intersection with the Throgs Neck Expressway, then following the Throgs Neck Expressway to the Throgs Neck Bridge, following the Throgs Neck Bridge and the Clearview Expressway to the intersection with the state coastal boundary at the Cross Island Parkway, then following the State coastal boundary east to its intersection with the topographic divide in the eastern portion of the Town of Southold, following the topographic divide to Orient Point, extending seaward to the New York boundary and including Plum Island and Fishers Island.
- (t) Maritime center means a discrete portion or area of a harbor or bay that is developed with, and contains concentrations of, water-dependent commercial and industrial uses or essential support facilities. The harbor or bay area is a center for waterborne commerce, recreation, or other water-dependent business activity and, as such, is an important component of the regional transportation system. A maritime center is characterized by: sheltered and suitable hydrologic conditions; land- and water-based infrastructure essential for the operation of water-dependent commercial and industrial uses, extant or easily provided; physical conditions necessary to meet the siting and operational requirements of water-dependent uses; close proximity to central business districts; and limited high value natural resources. The following are Long Island Sound's maritime centers:
 - Port Chester (Byram River-Port Chester Harbor)
 - Mamaroneck Harbor
 - Echo Bay-New Rochelle Harbor
 - City Island-East Shore Bronx
 - Port Washington-Manorhaven (Manhasset Bay)
 - Glen Cove Creek
 - Huntington Harbor
 - Northport Harbor
 - Port Jefferson Harbor
 - Mattituck Harbor
- (u) Maritime support services means industrial, commercial, or retail uses which provide necessary goods and services to water-dependent businesses, thus enabling these businesses to operate in an efficient and economically viable manner.
- (v) Native or indigenous community means a variable assemblage of interacting plant and animal populations that share a common environment.
- (w) Native or indigenous stock means fish, shellfish, and crustaceans originating in and being produced, growing, living, or occurring naturally in the coastal waters of Long Island Sound.

- (x) Natural protective features means a nearshore area, beach, bluff, primary dune, secondary dune, or wetlands and the vegetation thereon.
- (y) Permit means a permit, lease, license, certificate or other entitlement for use or permission to act that may be granted or issued by a State agency.
- (z) Public trust lands means those lands below navigable waters, with the upper boundary normally being the mean high water line, or otherwise determined by local custom and practice. Public trust lands, waters, and living resources are held in trust by the State or by the trustees of individual towns for the people to use for walking, fishing, commerce, navigation, and other recognized uses of public trust lands.
- (aa) Rare ecological communities means ecological communities which qualify for a heritage state rank of S1 or S2; and those which qualify for both a heritage state rank of S3, S4 or S5; and an element occurrence rank of A.
- (ab) Regionally important natural area means a defined geographic area within the Long Island Sound coastal boundary generally composed of a variety of smaller, natural ecological communities that together form a landscape of environmental, social, and economic value to the people of New York. To be identified as a regionally important natural area, an area must contain significant natural resources which are at risk and require additional management to protect or restore resource values.
- (ac) Secretary means the Secretary of State.
- (ad) State agency means any department, bureau, board, commission, public authority or other agency of the State, including any public benefit corporation, any member of which is appointed by the Governor.
- (ae) Traditional waterfront communities means communities which historically have contained concentrations of water-dependent businesses, possess a distinctive character, and serve as focal points for commercial, recreational, and cultural activities within the region. On Long Island Sound, these communities are: Village of Port Chester, Village of Mamaroneck, City of New Rochelle, City Island, Manorhaven-Port Washington, City of Glen Cove, Roslyn, Village of Sea Cliff, Bayville, Village of Northport, Stony Brook, Setauket, Village of Port Jefferson, Oyster Bay, Cold Spring Harbor, Huntington Harbor, and Mattituck Inlet.
- (af) Vulnerable fish and wildlife species means those listed in 6 NYCRR 182.5 as endangered species, and threatened species.
- (ag) Vulnerable plant species means those listed in 6 NYCRR 193.3 as endangered species, threatened species, exploitable vulnerable species, and rare species.
- (ah) Water-dependent use means a business or other activity which can only be conducted in, on, over, or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water.
- (ai) Water-enhanced use means a use or activity which does not require a location adjacent to coastal waters, but whose location on the waterfront adds to the public use and enjoyment of the water's edge. Water-enhanced uses are primarily recreational, cultural, retail, or entertainment uses.

§ 600.3 General rules.

- (a) No State agency involved in an action shall carry out, fund or approve the action until it has complied with the provisions of article 42 of the Executive Law.

- (b) In accordance with Executive Law, article 42, actions directly undertaken by State agencies within the coastal area, including grants, loans or other funding assistance, land use and development, planning and land transactions, shall be consistent with the applicable coastal policies set forth in section 600.5 or 600.6 of this Part for actions within the Long Island Sound coastal area, so as to achieve a balance between the protection of natural resources and the need to accommodate the needs of population growth and economic development, as provided in Executive Law, sections 910 and 912(1). It is intended that this balancing occur in the manner specified in section 600.4 of this Part.
- (c) In accordance with Executive Law article 42, when the Secretary has approved a local Waterfront Revitalization Program, and has identified State agency program actions which are likely to affect the achievement of the policies and purposes of such approved local Waterfront Revitalization Program, the State agency program actions so identified shall be undertaken in a manner which is consistent to the maximum extent practicable with the approved local Waterfront Revitalization Program.
- (d) This Part shall not apply to action for which a final environmental impact statement has been prepared or for which a determination has been made that the action will not have a significant effect on the environment, pursuant to 6 NYCRR Part 617 prior to the effective date of this Part.
- (e) Nothing in the Part shall be construed to authorize or require the issuance of any permit, license, certification, or other approval or the approval of any grant, loan or other funding assistance which is denied by the State agency having jurisdiction, pursuant to other provisions of law or which is conditioned by such agency pursuant to other provisions of law until such conditions are met.

§ 600.4 Initial review of actions.

As early as possible in a State agency's formulation of an action it proposes to undertake, or as soon as a State agency receives an application for a funding or approval action, it shall determine whether the action is located within the coastal area. For purposes of this Part, planning or rulemaking actions which affect land or water in the coastal area shall be deemed to be located therein. At the time it is determined that the action is located within the coastal area the State agency shall follow the review procedures set forth in this Part, including the completion of a coastal assessment form (CAF) in a form prescribed by the Secretary. The CAF shall be completed prior to the agency's determination of significance pursuant to SEQR (6 NYCRR Part 617) so that it can then supplement other information used by State agencies in making determinations of significance pursuant to such Part 617. If it is determined that an action will not have a significant effect on the environment, the CAF is intended to assist State agencies in arriving at their decision as to certification if required by this section. Where any question on the CAF is answered yes, a brief and precise description of the nature and extent of the action shall be provided on the CAF, and a copy of the CAF forwarded to the Secretary; provided, however, this requirement does not apply to permit actions unless such actions involve Federal review, funding, or approval. For the purposes of complying with the requirements of Executive Law article 42, State agencies shall meet the requirements of either subdivision (a), (b) or (c) of this section, whichever applies.

- (a) Where a determination is made pursuant to 6 NYCRR Part 617 that an action may have a significant effect on the environment, the agency shall comply with the requirements of 6 NYCRR 617.9(b)(5)(vi) and

617.11(e). Fulfilling such requirements constitutes a determination of consistency as required by Executive Law article 42.

(b) Where a determination is made pursuant to 6 NYCRR Part 617, that an action will not have a significant effect on the environment, and where a State agency is undertaking a direct or funding action, other than rulemaking, the State agency, at the time of making its decision on the action shall file with the Secretary a certification that such action will not substantially hinder the achievement of any of the coastal policies set forth in section 600.5 or 600.6 of this Part for actions within the Long Island Sound coastal area, and whenever practicable will advance one or more of such policies. If the action will substantially hinder the achievement of any policy, the agency shall instead certify that the following four requirements are satisfied:

- (1) no reasonable alternatives exist which would permit the action to be taken in a manner which would not substantially hinder the achievement of such policy;
- (2) the action taken will minimize all adverse effects on such policies to the maximum extent practicable;
- (3) the action will advance one or more of the other coastal policies; and
- (4) the action will result in an overriding regional or statewide public benefit.

Such certification shall constitute a determination of consistency as required by Executive Law article 42.

(c) Where a determination is made pursuant to 6 NYCRR Part 617 that an action will not have a significant effect on the environment, and where the action is in the coastal area within the boundaries of an approved local Waterfront Revitalization Program area, and the action is one identified by the Secretary pursuant to section 916(1)(a) of the Executive Law, a State agency shall submit, through appropriate existing clearing house procedures, information on the proposed action to the local government and, at the time of making its decision on the action, file with the Secretary a certification that the action will not substantially hinder the achievement of any of the policies and purposes of the applicable approved local Waterfront Revitalization Program and whenever practicable will advance one or more of such policies. If the action will substantially hinder the achievement of any policy or purpose of the applicable approved local Waterfront Revitalization Program, the State agency shall instead certify that the following three requirements are satisfied:

- (1) no reasonable alternatives exist which would permit the action to be taken in a manner which would not substantially hinder the achievement of such policy or purpose;
- (2) the action taken will minimize all adverse effects on the local policy and purpose to the maximum extent practicable; and
- (3) the action will result in an overriding regional or statewide public benefit.

Such certification shall constitute a determination that the action is consistent to the maximum extent practicable with the approved local Waterfront Revitalization Program as required by Executive Law article 42.

§ 600.5 Coastal policies.

In evaluating proposed actions against the following policies, State agencies are strongly encouraged to consider the coastal policy explanations and guidelines contained in the approved New York State Coastal Management Program document.

(a) Development policies.

- (1) Restore, revitalize and redevelop deteriorated and underutilized waterfront areas for commercial and industrial, cultural, recreational and other compatible uses.
- (2) Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.
- (3) Encourage the development of the State's existing major ports of Albany, Buffalo, New York, Ogdensburg and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of State public authorities, of land use and development which is essential to or in support of waterborne transportation of cargo and people.
- (4) Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.
- (5) Encourage the location of development in areas where public services and facilities essential to such development are adequate, except when such development has special functional requirements or other characteristics which necessitate its location in other coastal areas.

(b) Fish and wildlife policies.

- (1) Significant coastal fish and wildlife habitats, as identified on the coastal area map, shall be protected, preserved and, where practical, restored so as to maintain their viability as habitats.
- (2) Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks and developing new resources. Such efforts shall be made in a manner which ensures the protection of renewable fish and wildlife resources and considers other activities dependent on them.
- (3) Further develop commercial finfish, shellfish and crustacean resources in the coastal area by:
 - (i) encouraging the construction of new or improvement of existing onshore commercial fishing facilities;
 - (ii) increasing marketing of the State's seafood products; and
 - (iii) maintaining adequate stocks and expanding aquaculture facilities.Such efforts shall be made in a manner which ensures the protection of such renewable fish resources and considers other activities dependent on them.
- (4) 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.

- ### (c) Agricultural lands policy.
- To conserve and protect agricultural lands in the State's coastal area, an action shall not result in a loss nor impair the productivity of important agriculture lands as identified on the coastal area map, if that loss or impairment would adversely affect the viability of agriculture in an agricultural district or, if there is no agricultural district, in the area surrounding such lands.

- (d) Scenic quality policies.
 - (1) Prevent impairment of scenic resources of statewide significance, as identified on the coastal area map. Impairment shall include:
 - (i) the irreversible modification of geological forms, the destruction or removal of vegetation, the destruction or removal of structures, wherever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and
 - (ii) the addition of structures which because of siting or scale will reduce identified views or which because of scale, form or materials will diminish the scenic quality of an identified resource.
 - (2) Protect, restore and enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the scenic quality of the coastal area.
- (e) Public access policies.
 - (1) Protect, maintain and increase the levels and types of access to public water-related recreation resources and facilities so that these resources and facilities may be fully utilized by all the public in accordance with reasonably anticipated public recreation needs and the protection of historic and natural resources. In providing such access, priority shall be given to public beaches, boating facilities, fishing areas and waterfront parks.
 - (2) Access to the publicly owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly owned shall be provided, and it should be provided in a manner compatible with adjoining uses. Such lands shall be retained in public ownership.
- (f) Recreation policies.
 - (1) Water dependent and water-enhanced recreation shall be encouraged and facilitated and shall be given priority over nonwater-related uses along the coast, provided it is consistent with the preservation and enhancement of other coastal resources and takes into account demand for such facilities. In facilitating such activities, priority shall be given to areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and to those areas where the use of the shore is severely restricted by existing development.
 - (2) Development, when located adjacent to the shore, shall provide for water-related recreation, as a multiple use, whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development.
 - (3) 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.
- (g) Flooding and erosion hazards policies.
 - (1) Whenever possible, use nonstructural measures to minimize damage to natural resources and property from flooding and erosion. Such measures shall include:
 - (i) the setback of buildings and structures;
 - (ii) the planting of vegetation and the installation of sand fencing and drainage systems;
 - (iii) the reshaping of bluffs; and
 - (iv) the flood-proofing of buildings or their elevation above the base flood level.

- (2) 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 land.
 - (3) The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least 30 years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.
 - (4) Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features, including beaches, dunes, barrier islands and bluffs. Primary dunes will be protected from all encroachments that could impair their natural protective capacity.
 - (5) Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development or at other locations.
 - (6) Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long-term monetary and other costs, including the potential for increasing erosion and adverse effects on natural protective features.
- (h) Water resources policies.
- (1) State coastal area policies and purposes of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.
 - (2) Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.
 - (3) Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.
 - (4) Discharge of waste materials from vessels into coastal waters will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.
 - (5) Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.
- (i) To safeguard the vital economic, social and environmental interests of the State and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the State has established to protect valuable coastal resource areas.

§ 600.6 Long Island Sound coastal policies.

Reference should be made to the Long Island Sound Coastal Management Program, particularly chapter four thereof, for information and guidance in determining whether an action in the Long Island Sound coastal area is consistent with the following policies.

- (a) Foster a pattern of development in the Long Island Sound coastal area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a coastal location, and minimizes adverse effects of development.
 - (1) Concentrate development and redevelopment in or adjacent to traditional waterfront communities.
 - (i) Maintain traditional waterfront communities and ensure that development within these communities supports and is compatible with the character of the community.
 - (ii) Focus public investment, actions, and assistance in waterfront redevelopment areas to reclaim unused waterfront land and brownfields for new purposes.
 - (iii) Locate new development where infrastructure is adequate or can be upgraded to accommodate new development.
 - (2) Ensure that development or uses take appropriate advantage of their coastal location.
 - (i) Reserve coastal waters for water-dependent uses and activities.
 - (ii) Accommodate water-enhanced uses along the sound waterfront where they are compatible with surrounding development, do not displace or interfere with water-dependent uses, and reflect the unique qualities of a coastal location through appropriate design and orientation.
 - (iii) Allow other uses that derive benefit from a waterfront location, such as residential uses, in appropriate locations.
 - (iv) Avoid uses on the waterfront which cannot by their nature derive economic benefit from a waterfront location.
 - (3) Protect stable residential areas.
 - (i) Maintain stable residential areas and allow for continued compatible residential and supporting development in or adjacent to such areas.
 - (4) Maintain and enhance natural areas, recreation, open space, and agricultural lands.
 - (i) Avoid loss of economic, environmental, and aesthetic values associated with these areas.
 - (ii) Avoid expansion of infrastructure and services which would promote conversion of these areas to other uses.
 - (iii) Maintain natural, recreational and open space values including those associated with large estates, golf courses, and beach clubs.
 - (5) Minimize adverse impacts of new development and redevelopment.
 - (i) Minimize potential adverse land use, environmental, and economic impacts that would result from proposed development.

- (ii) Minimize the potential for adverse impacts of types of development which individually may not result in a significant adverse environmental impact, but when taken together could lead to or induce subsequent significant adverse impacts.
- (b) Preserve historic resources of the Long Island Sound coastal area.
- (1) Maximize preservation and retention of historic resources.
 - (i) Preserve the historic character of the resource by protecting historic materials and features or by making repairs using appropriate measures.
 - (ii) Provide for compatible use of the historic resource, while limiting and minimizing alterations to the resource.
 - (iii) Minimize loss of historic resources or historic character when it is not possible to completely preserve the resource.
 - (iv) Relocate historic structures only when the resource cannot be preserved in place.
 - (v) Allow demolition only where alternatives for retention are not feasible.
 - (vi) Avoid potential adverse impacts of development on nearby historic resources.
 - (2) Protect and preserve archaeological resources.
 - (i) Minimize potential adverse impacts by redesigning projects, reducing direct impacts on the resource, recovering artifacts prior to construction, and documenting the site.
 - (ii) Prohibit appropriation of any object of archaeological or paleontological interest situated on or under lands owned by New York State, except as provided for in Education Law, section 233.
 - (3) Protect and enhance resources that are significant to the coastal culture of the Long Island Sound.
 - (i) Protect historic shipwrecks.
 - (ii) Prevent unauthorized collection of artifacts from shipwrecks.
 - (iii) Protect the character of historic maritime communities.
 - (iv) Preserve and enhance historic lighthouses and other navigational structures by providing for their long-term protection through the least degree of intervention necessary to preserve the structure. Consider extensive shoreline stabilization only if relocation of historic lighthouses is not feasible.
- (c) Enhance visual quality and protect scenic resources throughout Long Island Sound.
- (1) Protect and improve visual quality throughout the coastal area.
 - (i) Enhance existing scenic characteristics by minimizing introduction of discordant features.
 - (ii) Restore deteriorated and remove degraded visual elements, and screen activities and views which detract from visual quality.
 - (iii) Preserve existing vegetation and establish new vegetation to enhance scenic quality.
 - (iv) Group or orient structures to preserve open space and provide visual organization.
 - (v) Improve the visual quality associated with urban areas and the historic centers of maritime activity on Long Island Sound.

- (vi) Anticipate and prevent impairment of dynamic landscape elements that contribute to ephemeral scenic qualities.
 - (vii) Recognize water-dependent uses as important additions to the visual interest of the sound's coast.
 - (viii) Protect scenic values associated with public lands, including public trust lands and waters, and natural resources.
- (2) Protect aesthetic values associated with recognized areas of high scenic quality.
- (i) Protect aesthetic and scenic values associated with the Nissequogue River, and any areas designated as scenic areas of statewide significance.
 - (ii) Prevent impairment of scenic components that contribute to high scenic quality.
- (d) Minimize loss of life, structures, and natural resources from flooding and erosion.
- (1) Minimize losses of human life and structures from flooding and erosion hazards.
- (i) Use the following management measures, which are presented in order of priority:
 - (a) avoid development other than water-dependent uses in coastal hazard areas;
 - (b) locate or move development and structures as far away from hazards as practical;
 - (c) use vegetative nonstructural measures which have a reasonable probability of managing flooding and erosion, based on shoreline characteristics including exposure, geometry, and sediment composition;
 - (d) enhance existing natural protective features and processes, and use nonstructural measures which have a reasonable probability of managing erosion;
 - (e) use hard structural erosion protection measures for control of erosion only where the above measures are not sufficient to protect the principal use or the use is water-dependent or reinforces the role of a maritime center or a waterfront redevelopment area.
 - (ii) Mitigate the impacts of erosion control structures.
 - (iii) Manage development in floodplains outside of coastal hazard areas so as to avoid adverse environmental effects, to minimize the need for structural flood protection measures, and to meet Federal flood insurance program standards.
- (2) Preserve and restore natural protective features.
- (i) Prevent development in natural protective features except development as specifically allowed in 6 NYCRR section 505.8.
 - (ii) Maximize the protective capabilities of natural protective features by:
 - (a) avoiding alteration or interference with shorelines in a natural condition;
 - (b) enhancing existing natural protective features;
 - (c) restoring impaired natural protective features; and
 - (d) managing activities to minimize interference with, limit damage to, or reverse damage which has diminished the protective capacities of the natural shoreline.
 - (iii) Minimize interference with natural coastal processes by:
 - (a) providing for natural supply and movement of unconsolidated materials;

- (b) minimizing intrusion of structures into coastal waters and interference with coastal processes;
and
 - (c) by mitigating any unavoidable intrusion or interference.
 - (3) Protect public lands and public trust lands and use of these lands when undertaking all erosion or flood control projects.
 - (i) Retain ownership of public trust lands which have become upland areas due to fill or accretion resulting from erosion control projects.
 - (ii) Avoid losses or likely losses of public trust lands or use of these lands, including public access along the shore, which can be reasonably attributed to or anticipated to result from erosion protection structures.
 - (iii) Mitigate unavoidable impacts on adjacent property, natural coastal processes and natural resources, and on public trust lands and their use.
 - (4) Manage navigation infrastructure to limit adverse impacts on coastal processes.
 - (i) Manage navigation channels to limit adverse impacts on coastal processes by: designing channel construction and maintenance to protect and enhance natural protective features and prevent destabilization of adjacent areas; and making beneficial use of suitable dredged material.
 - (ii) Manage stabilized inlets to limit adverse impacts on coastal processes.
 - (5) Ensure that expenditure of public funds for flooding and erosion control projects results in a public benefit.
 - (i) Give priority in expenditure of public funds to actions which: protect public health and safety; mitigate flooding and erosion problems caused by previous human intervention; protect areas of intensive development; and protect substantial public investment in land, infrastructure, and facilities.
 - (ii) Expenditure of public funds is limited to those circumstances where public benefits exceed public cost, and prohibited for the exclusive purpose of protecting private development, except where actions are undertaken by an erosion protection district.
 - (6) Consider sea level rise when siting and designing projects involving substantial expenditure of public funds.
- (e) Protect and improve water quality and supply in the Long Island Sound coastal area.
- (1) Prohibit direct or indirect discharges which would cause or contribute to contravention of water quality standards.
 - (i) Restore Long Island Sound's water quality by reducing impairments caused by major sources of pollution by:
 - (a) limiting nitrogen loadings from waste water treatment plants to levels at or below levels occurring in 1990;
 - (b) reducing nitrogen discharges sufficient to limit the occurrence of hypoxia; and

- (c) remediating existing contaminated sediment, and limiting introduction of new contaminated sediment.
 - (ii) Prevent point source discharges into coastal waters and avoid land and water uses which would:
 - (a) exceed applicable effluent limitations;
 - (b) cause or contribute to contravention of water quality classification and use standards;
 - (c) materially adversely affect receiving water quality; or
 - (d) violate a vessel waste no-discharge zone prohibition.
 - (iii) Ensure effective treatment of sanitary sewage and industrial discharges by maintaining efficient operation of treatment facilities, providing secondary treatment of sanitary sewage, improving nitrogen removal capacity, incorporating treatment beyond secondary for new wastewater treatment facilities, reducing demand on facilities, reducing loading of toxic materials, reducing or eliminating combined sewer overflows, and managing on-site disposal systems.
- (2) Manage land use activities and use best management practices to minimize nonpoint pollution of coastal waters.
- (3) Protect and enhance quality of coastal waters.
- (i) Protect water quality based on physical factors (Ph, dissolved oxygen, dissolved solids, nutrients, odor, color, and turbidity), health factors (pathogens, chemical contaminants, and toxicity), and aesthetic factors (oils, floatables, refuse, and suspended solids).
 - (ii) Minimize disturbance of streams, including their bed and banks, in order to prevent erosion of soil, increased turbidity, and irregular variation in velocity, temperature, and level of water.
 - (iii) Protect water quality of coastal waters from adverse impacts associated with excavation, fill, dredging, and disposal of dredge material.
- (4) Limit the potential for adverse impacts of watershed development on water quality and quantity.
- (i) Protect water quality by ensuring that watershed development protects areas that provide important water quality benefits, maintains natural characteristics of drainage systems, and protects areas that are particularly susceptible to erosion and sediment loss.
 - (ii) Limit the impacts of individual development projects to prevent cumulative water quality impacts upon the watershed which would result in a failure to meet water quality standards.
- (5) Protect and conserve the quality and quantity of potable water.
- (i) Prevent contamination of potable waters by limiting discharges of pollutants and limiting land uses which are likely to contribute to contravention of surface and groundwater quality classifications for potable water supplies.
 - (ii) Prevent depletion of existing potable water supplies by limiting saltwater intrusion in aquifers and estuaries through conservation methods or restrictions on water supply use and withdrawals and allowing for recharge of potable aquifers.
 - (iii) Limit cumulative impacts of development on groundwater recharge areas to ensure replenishment of potable groundwater supplies.

- (f) Protect and restore the quality and function of the Long Island Sound ecosystem.
 - (1) Protect and restore ecological quality throughout Long Island Sound.
 - (i) Avoid significant adverse changes to the quality of the Long Island Sound ecosystem as indicated by physical loss, degradation, or functional loss of ecological components.
 - (ii) Maintain values associated with natural ecological communities.
 - (iii) Retain and add indigenous plants.
 - (iv) Avoid fragmentation of natural ecological communities and maintain corridors between ecological communities. Maintain structural and functional relationships between natural ecological communities to provide for self-sustaining systems.
 - (v) Avoid permanent adverse change to ecological processes.
 - (vi) Reduce adverse impacts of existing development when practical.
 - (vii) Mitigate impacts of new development; mitigation may also include reduction or elimination of adverse impacts associated with existing development.
 - (2) Protect and restore significant coastal fish and wildlife habitats.
 - (i) Protect Long Island Sound's designated significant coastal fish and wildlife habitats from uses or activities which would destroy habitat values or significantly impair the viability of the designated habitat beyond its tolerance range which is the ecological range of conditions that supports the species population or has the potential to support a restored population where practical.
 - (ii) Where destruction or significant impairment of habitat values cannot be avoided, minimize potential impacts through appropriate mitigation.
 - (iii) Wherever practical, enhance or restore designated habitats so as to foster their continued existence as natural systems.
 - (3) Protect and restore tidal and freshwater wetlands.
 - (i) Comply with statutory and regulatory requirements of the State's wetland laws.
 - (ii) Prevent the net loss of vegetated wetlands by avoiding fill or excavation; minimizing adverse impacts resulting from unavoidable fill, excavation or other activities; and providing for compensatory mitigation for unavoidable adverse impacts. Provide and maintain adequate buffers between wetlands and adjacent or nearby uses and activities to protect wetland values.
 - (iii) Restore tidal and freshwater wetlands wherever practicable to foster their continued existence as natural systems.
 - (4) Protect vulnerable fish, wildlife, and plant species, and rare ecological communities.
 - (5) Protect natural resources and associated values in identified regionally important natural areas.
 - (i) Protect natural resources comprising a regionally important natural area. Focus State actions on protection, restoration, and management of natural resources.
 - (ii) Protect and enhance activities associated with sustainable human use or appreciation of natural resources.

- (iii) Provide for achievement of a net increase in wetlands when practical opportunities exist to create new or restore former tidal wetlands.
 - (iv) Adhere to management plans prepared for regionally important natural areas.
- (g) Protect and improve air quality in the Long Island Sound coastal area.
- (1) Control or abate existing and prevent new air pollution.
 - (i) Limit pollution resulting from new or existing stationary air contamination sources consistent with applicable standards, plans, and requirements.
 - (ii) Recycle or salvage air contaminants using best available air cleaning technologies.
 - (iii) Limit pollution resulting from vehicle or vessel movement or operation.
 - (iv) Limit actions which directly or indirectly change transportation uses or operations resulting in increased pollution.
 - (v) Restrict emissions or air contaminants to the outdoor atmosphere which are potentially injurious or unreasonably interfere with enjoyment of life or property.
 - (vi) Limit new facility or stationary source emissions of acid deposition precursors consistent with achieving final control target levels for wet sulfur deposition in sensitive receptor areas, and meeting new source performance standards for the emissions of oxides of nitrogen.
 - (2) Limit discharges of atmospheric radioactive material to a level that is as low as practicable.
 - (3) Limit sources of atmospheric deposition of pollutants to the sound, particularly from nitrogen sources.
- (h) Minimize environmental degradation in the Long Island Sound coastal area from solid waste and hazardous substances and wastes.
- (1) Manage solid waste to protect public health and control pollution.
 - (i) Plan for proper and effective solid waste disposal prior to undertaking major development or activities generating solid wastes.
 - (ii) Manage solid waste by: reducing the amount of solid waste generated, reusing or recycling material, and using land burial or other approved methods to dispose of solid waste that is not otherwise being reused or recycled.
 - (iii) Prevent the discharge of solid wastes into the environment by using proper handling, management, and transportation practices.
 - (iv) Operate solid waste management facilities to prevent or reduce water, air, and noise pollution and other conditions harmful to the public health.
 - (2) Manage hazardous wastes to protect public health and control pollution.
 - (i) Manage hazardous waste in accordance with the following priorities:
 - (a) eliminate or reduce generation of hazardous wastes to the maximum extent practical;
 - (b) recover, reuse, or recycle remaining hazardous wastes to the maximum extent practical;
 - (c) use detoxification, treatment, or destruction technologies to dispose of hazardous wastes that cannot be reduced, recovered, reused, or recycled; and
 - (d) use land disposal as a last resort.

- (ii) Phase out land disposal of industrial hazardous wastes.
 - (iii) Ensure maximum public safety through proper management of industrial hazardous waste treatment, storage, and disposal.
 - (iv) Remediate inactive hazardous waste disposal sites.
- (3) Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.
- (i) Prevent release of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources.
 - (ii) Prevent environmental degradation due to persistent toxic pollutants by: limiting discharge of bioaccumulative substances, avoiding resuspension of toxic pollutants and hazardous substances and wastes, and avoiding reentry of bioaccumulative substances into the food chain from existing sources.
 - (iii) Prevent and control environmental pollution due to radioactive materials.
 - (iv) Protect public health, public and private property, and fish and wildlife from inappropriate use of pesticides.
 - (v) Take appropriate action to correct all unregulated releases of substances hazardous to the environment.
- (4) Prevent and remediate discharge of petroleum products.
- (i) Minimize adverse impacts from potential oil spills by appropriate siting of petroleum offshore loading facilities.
 - (ii) Have adequate plans for prevention and control of petroleum discharges in place at any major petroleum-related facility.
 - (iii) Prevent discharges of petroleum products by following approved handling and storage, and facility design and maintenance principles.
 - (iv) Clean up and remove any petroleum discharge, giving first priority to minimizing environmental damage.
- (5) Transport solid waste and hazardous substances and waste in a manner which protects the safety, well-being, and general welfare of the public, the environmental resources of the State, and continued use of transportation facilities.
- (6) Site solid and hazardous waste facilities to avoid potential degradation of coastal resources.
- (i) Provide for public access to, and recreational use of, coastal waters, public lands, and public resources of the Long Island Sound coastal area.
- (1) Promote appropriate and adequate physical public access and recreation throughout the coastal area.
- (i) Provide convenient, well-defined, physical public access to and along the coast for water-related recreation.

- (ii) Provide a level and type of public access and recreational use that takes into account proximity to population centers, public demand, natural resource sensitivity, accessibility, compatibility with on-site and adjacent land uses, and needs of special groups.
 - (iii) Protect and maintain existing public access and water-related recreation.
 - (iv) Provide additional physical public access and recreation facilities at public sites.
 - (v) Provide physical access linkages throughout Long Island Sound.
 - (vi) Include physical public access and/or water-related recreation facilities as part of development whenever development or activities are likely to limit the public's use and enjoyment of public coastal lands and waters.
 - (vii) Provide incentives to private development which provides public access and/or water-related recreation facilities.
 - (viii) Restrict public access and water-related recreation on public lands only where incompatible with public safety and protection of natural resources.
 - (ix) Ensure access for the general public at locations where State or Federal funds are used to acquire, develop, or improve parkland.
- (2) Provide public visual access from public lands to coastal lands and waters or open space at all sites where physically practical.
- (i) Avoid loss of existing visual access by limiting physical blockage by development or activities. Minimize adverse impact on visual access.
 - (ii) Mitigate loss of visual access by providing for on-site visual access or additional and comparable visual access off-site.
 - (iii) Increase visual access wherever practical.
- (3) Preserve the public interest in and use of lands and waters held in public trust by the State, New York City, and towns in Nassau and Suffolk counties.
- (i) Limit grants, easements, permits, or lesser interests in lands underwater to those instances where they are consistent with the public interest in the use of public trust lands.
 - (ii) Determine ownership, riparian interest, or other legal right prior to approving private use of public trust lands under water.
 - (iii) Limit grants, including conversion grants, in fee of underwater lands to exceptional circumstances.
 - (iv) Reserve such interests or attach such conditions to preserve the public interest in underwater lands and waterways which will be adequate to preserve public access, recreation opportunities, and other public trust purposes.
 - (v) Evaluate opportunities to re-establish public trust interests in existing grants which are not used in accordance with the terms of the grant, or are in violation of the terms of the lease, or where there are significant limitations on public benefits resulting from or the public trust doctrine.
- (4) Assure public access to public trust lands and navigable waters.
- (i) Ensure that the public interest in access below mean high water and to navigable waters is maintained.

- (ii) Allow obstructions to public access when necessary for the operation of water- dependent uses and their facilities.
 - (iii) Permit interference with public access for riparian non-water-dependent uses in order to gain the minimum necessary reasonable access to navigable waters.
 - (iv) Use the following factors in determining the minimum access necessary: the upland uses' dependence on access to navigable waters, the range of tidal fluctuation, the size and nature of the water body, the uses of the adjacent waters by the public, the traditional means of access used by surrounding similar uses, and whether alternative means to gain access are available.
 - (v) Mitigate substantial interference or obstruction of public use of public trust lands and navigable waters.
- (j) Protect Long Island Sound's water-dependent uses and promote siting of new water- dependent uses in suitable locations.
- (1) Protect existing water-dependent uses.
 - (i) Avoid actions which would displace, adversely impact, or interfere with existing water-dependent uses.
 - (2) Promote maritime centers as the most suitable locations for water-dependent uses.
 - (i) Ensure that public actions enable maritime centers to continue to function as centers for water-dependent uses.
 - (ii) Protect and enhance the economic, physical, cultural, and environmental attributes which make up the character of each maritime center.
 - (3) Allow for development of new water-dependent uses outside of maritime centers.
 - (i) New water-dependent uses may be appropriate outside maritime centers if the use:
 - (a) should not be located in a maritime center due to the lack of suitable sites;
 - (b) has unique locational requirements that necessitate its location outside maritime centers;
 - (c) would adversely impact the functioning and character of the maritime center if located within the maritime center; or
 - (d) is of a small scale and has a principal purpose of providing access to coastal waters.
 - (4) Improve the economic viability of water-dependent uses by allowing for non-water- dependent accessory and multiple uses, particularly water-enhanced and maritime support services.
 - (5) Minimize adverse impacts of new and expanding water-dependent uses, provide for their safe operation, and maintain regionally important uses.
 - (i) Site new and expand existing marinas, yacht clubs, boat yards, and other boating facilities where there is: adequate upland for support facilities and services; sufficient waterside and landside access; appropriate nearshore depth to minimize dredging; suitable water quality classification; minimization of effects on wetlands, shellfish beds, or fish spawning grounds; and adequate water circulation.

- (ii) Maintain existing ferry services and promote new ferry services to increase the transportation efficiency of passengers and cargo in the sound region.
 - (iii) Improve protection of natural resources when importing, transshipping, or storing petroleum products by promoting inland storage and offshore transshipment of product.
 - (iv) Maintain regionally important aggregate transshipment facilities.
- (6) Provide sufficient infrastructure for water-dependent uses.
- (i) Protect and maintain existing public and private navigation lanes and channels at depths consistent with the needs of water-dependent uses.
 - (ii) Provide new or expanded navigation lanes, channels, and basins when necessary to support water-dependent uses.
 - (iii) Use suitable dredged material for beach nourishment, dune reconstruction, or other beneficial uses.
 - (iv) Avoid placement of dredged material in Long Island Sound when opportunities for beneficial reuse of the material exist.
 - (v) Allow placement of suitable dredged material in nearshore locations to advance maritime or port-related functions, provided it is adequately contained and avoids impacts on vegetated wetlands and significant coastal fish and wildlife habitats.
 - (vi) Avoid shore and water surface uses which would impede navigation.
 - (vii) Give priority to existing commercial navigation in determining rights to navigable waters.
 - (viii) Provide for services and facilities to facilitate commercial, industrial, and recreational navigation.
 - (ix) Foster water transport for cargo and people.
 - (x) Maintain stabilized inlets at Glen Cove Creek, Port Jefferson, Mount Sinai, Mattituck Inlet, and Silver Eel Pond.
- (7) Promote efficient harbor operation.
- (i) Limit congestion of harbor waters, conflict among uses, foster navigational safety, and minimize obstructions in coastal waters to reduce potential hazards to navigation.
 - (ii) Prohibit any increase or additional use of coastal waters if such an increase or addition poses a public safety hazard which cannot be mitigated.
 - (iii) Prohibit intrusions or encroachments upon navigation channels and other identified vessel use areas.
- (k) Promote sustainable use of living marine resources in Long Island Sound.
- (1) Ensure the long-term maintenance and health of living marine resources.
- (i) Ensure that commercial and recreational uses of living marine resources are managed in a manner that: results in sustained useable abundance and diversity of the marine resource; does not interfere with population and habitat maintenance and restoration efforts; uses best available scientific information in managing the resources; and minimizes waste and reduces discard mortality of marine fishery resources.

- (ii) Ensure that the management of the State's transboundary and migratory species is consistent with interstate, State-Federal, and interjurisdictional management plans.
 - (iii) Protect, manage, and restore sustainable populations of indigenous fish, wildlife species, and other living marine resources.
 - (iv) Foster occurrence and abundance of Long Island Sound's marine resources by: protecting spawning grounds, habitats, and water quality; and enhancing and restoring fish and shellfish habitat, particularly for anadromous fish, oysters, and hard clams.
- (2) Provide for commercial and recreational use of the sound's finfish, shellfish, crustaceans, and marine plants.
- (i) Maximize the benefits of marine resource use so as to provide a valuable recreational resource experience, and viable business opportunities for commercial and recreational fisheries.
 - (ii) Where fishery conservation and management plans require actions that would result in resource allocation impacts, ensure equitable distribution of impacts among user groups, giving priority to existing fisheries in the State.
 - (iii) Protect the public health and the marketability of marine and fishery resources by maintaining and improving water quality.
 - (iv) Promote development of and maintain existing artificial reefs to improve marine resources habitat and expand nearshore fishing opportunities.
- (3) Maintain and strengthen a stable commercial fishing fleet in Long Island Sound.
- (i) Protect and strengthen commercial fishing harvest operations, facilities, and waterfront infrastructure to support a stable commercial fishing industry.
 - (ii) Improve existing and support expansion of fishing operations and facilities for offshore commercial fishing in Huntington Harbor, Northport Harbor, Port Jefferson Harbor, and Mattituck Harbor. Maintain existing commercial fishing operations and facilities in Oyster Bay, Setauket, and Mount Sinai at present levels.
 - (iii) Support nearshore harvesting throughout the sound region by providing access, berthing, and off-loading facilities suitable for nearshore operators.
 - (iv) Protect commercial fishing from interference or displacement by competing land and water uses.
 - (v) Strengthen the economic viability of the sound's commercial fishing fleet through appropriate domestic and international marketing.
- (4) Promote recreational use of marine resources.
- (i) Provide opportunities for recreational use of marine resources.
 - (ii) Provide adequate infrastructure to meet recreational needs, including appropriate fishing piers, dockage, parking, and livery services.
 - (iii) Promote commercial charter and party boat businesses in maritime centers.
- (5) Promote managed harvest of shellfish originating from uncertified waters.
- (i) Allow for harvest of shellfish from uncertified waters, provided shellfish sanitation protocols are adhered to for protection of public health.

- (ii) Limit environmental disturbance of the harvest area by using the scale or method of shellfish harvesting operations that is most appropriate to the resource and the physical characteristics of the harvest area. Allow sufficient shellfish spawning stock to remain in the harvest area to maintain the resource while reducing the likelihood of illegal harvesting.
 - (iii) Promote hand-harvesting of stock for depuration and for relays by nearshore harvesters.
- (6) Promote aquaculture.
- (i) Encourage aquaculture of economically important species.
 - (ii) Protect native stocks from potential adverse biological impacts due to aquaculture.
 - (iii) Provide leases of State-owned underwater lands for aquaculture only in areas which are not significant shellfish producing areas or which are not supporting significant shellfish hand-harvesting, and only where aquaculture operations would not significantly impair natural resources.
- (1) Protect agricultural lands in the eastern Suffolk County portion of Long Island Sound's coastal area.
- (1) Protect existing agriculture and agricultural lands from conversion to other land uses.
- (i) Protect existing agricultural use and production from adverse impacts due to: public infrastructure and facility development; creation of other conditions which are likely to lead to conversion of agricultural lands; and environmental changes which are likely to reduce agricultural productivity or quality, including, but not limited to, quantitative and qualitative changes to groundwater resources.
 - (ii) Provide sufficient buffer as part of new development when it is located near agricultural land.
- (2) Establish and maintain favorable conditions which support existing or promote new coastal agricultural production.
- (i) Promote new and maintain existing local services and commercial enterprises necessary to support agricultural operations.
 - (ii) Provide economic support of existing agriculture by allowing mixed uses which would assist in retention of the agricultural use.
 - (iii) Promote activities and market conditions that would likely prevent conversion of farmlands to other land uses.
- (3) Minimize adverse impacts on agriculture from unavoidable conversion of agricultural land.
- (i) Minimize encroachment of commercial, industrial, institutional, or residential development on agricultural lands.
 - (ii) Retain or incorporate opportunities for continuing agricultural use.
 - (iii) Locate and arrange development to maximize protection of the highest quality agricultural land in large contiguous tracts for efficient farming.
- (4) Preserve scenic and open space values associated with the sound's agricultural lands.
- (i) Locate and arrange development to maximize protection of agricultural land in large contiguous tracts to protect associated scenic and open space values.

- (ii) Allow farms to operate using appropriate modern techniques and structures without consideration of scenic values.
- (m) Promote appropriate use and development of energy and mineral resources.
- (1) Conserve energy resources.
 - (i) Promote and maintain energy efficient modes of transportation, including rail freight and intermodal facilities, waterborne cargo and passenger transportation, mass transit, and alternative forms of transportation.
 - (ii) Plan and construct sites using energy efficient design.
 - (iii) Capture heat waste from industrial processes for heating and electric generation.
 - (iv) Improve energy generating efficiency through design upgrades of existing facilities.
 - (2) Promote alternative energy sources that are self-sustaining, including solar and wind powered energy generation.
 - (i) In siting such facilities, avoid interference with coastal resources, including migratory birds, and coastal processes.
 - (3) Ensure maximum efficiency and minimum adverse environmental impact when siting major energy generating facilities.
 - (i) Site major energy generating facilities in a coastal location where a clear public benefit is established.
 - (ii) Site major energy generating facilities close to load centers to achieve maximum transmission efficiency.
 - (iii) Site and construct new energy generating and transmission facilities so they do not adversely affect natural and economic coastal resources.
 - (4) Minimize adverse impacts from fuel storage facilities.
 - (i) Regional petroleum reserve facilities are inappropriate in the Long Island Sound coastal area.
 - (ii) The production, storage, or retention of petroleum products in earthen reservoirs is prohibited.
 - (iii) Liquefied natural gas facilities must be safely sited and operated.
 - (iv) Protect natural resources by preparing and complying with an approved oil spill contingency plan.
 - (5) Minimize adverse impacts associated with mineral extraction.
 - (i) Commercial sand and aggregate mining is generally presumed to be an inappropriate use in the Long Island Sound coastal area.
 - (ii) Preserve and overburden using appropriate site preparation techniques and subsequent site reclamation plans.

19 NYCRR Part 601 - Local Waterfront Revitalization Programs

(Statutory authority: Executive Law, §§ 911, 912, 913, 914, 915, 915-b, 916, 917, 918, 922)

§ 601.1 Authority, intent and purpose.

This Part is adopted pursuant to sections 911, 912, 913, 914, 915, 915-b, 916, 918 and 922 of the Executive Law to implement the optional Local Waterfront Revitalization Program (LWRP) provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. It includes:

- (a) procedural requirements for voluntary participation by local governments;
- (b) criteria for review of local programs by the secretary;
- (c) procedural requirements for review and comment on each LWRP submitted.

§ 601.2 Submission of Local Waterfront Revitalization Programs.

- (a) Every submission of an LWRP to the secretary, in order to be deemed a completed submission eligible for approval, must be accompanied by a resolution of the legislative body providing for such submission. In those instances where two or more local governments are cooperatively submitting an LWRP, resolutions from each of the participating local governments shall be necessary before a submission is deemed complete and eligible for review by the Secretary.
- (b) Each LWRP shall include, for purposes of a completed submission eligible for review by the secretary, all of the elements contained in sections 911(6), 915(5) and 922 of the Executive Law.

§ 601.3 Criteria.

In order to approve a submitted LWRP as eligible for the benefits of sections 916 and 922 of article 42 of the Executive Law, the Secretary must find:

- (a) that the LWRP incorporates the criteria listed in sections 911(6), 915(5) or 915 (5-a), and 922 of article 42 of the Executive Law to an extent commensurate with the circumstances of the local government or local governments seeking approval;
- (b) that the LWRP is consistent with the policies of article 42 of the Executive Law as contained in section 600.5 or 600.6 of this Chapter; and
- (c) after consultation with potentially affected State and Federal agencies, that the LWRP will not conflict with any applicable State or Federal policy.

§ 601.4 Procedure for review.

- (a) Upon receipt of a completed LWRP the secretary shall circulate the program to such parties as the secretary shall deem appropriate, which parties shall include:
 - (1) every State agency (as defined in article 42 of the Executive Law) with programs identified in the submitted LWRP as having the potential to affect the achievement of that LWRP;
 - (2) any adjacent local government with contiguous coastal or inland waterway area;
 - (3) the county wherein the LWRP area is situated; and

- (4) the regional planning board, if any, wherein the LWRP area is situated.
- (b) All parties shall have 60 days for review and comment before the Secretary can render a decision as to the approvability of such LWRP.
- (c) (1) Major amendments to any approved LWRP, such as a substantial alteration in the coastal area boundary, or of applicable coastal policies, shall be reviewed in the same manner as any original LWRP.
(2) Minor amendments to any approved LWRP, such as updates which reflect changing characteristics of the community, incorporation into the LWRP of policies contained in the State Coastal Management Program, or adoption of local laws or ordinances which further implement the LWRP, shall be subject to a 21-day period for review and comment by all parties before the secretary may render a decision on approvability of the amendment.
- (d) Notice of disapproval by the secretary shall be issued in writing and shall include findings with respect to the criteria which the LWRP fails to meet. Disapproval of a LWRP shall be without prejudice and any local government may resubmit a LWRP without regard to prior disapprovals.
- (e) The secretary may, as a condition to approval of a LWRP, require that notice of certain identified actions of that local government or its agencies be given to the Secretary prior to such actions being taken.

§ 601.5 Submission, approval and effect of local laws or ordinances.

- (a) Local laws or ordinances adopted to implement harbor management plans shall be submitted to the secretary with the completed LWRP.
- (b) Such local laws or ordinances shall be approved and become effective as provided in section 922 of the Executive Law and Part 603 of this Title.

§ 601.6 Approved programs.

A LWRP approved by the secretary shall be eligible for the benefits provided in article 42 of the Executive Law.

§ 601.7 Review of approved programs.

- (a) The secretary shall periodically review the administration and implementation of every approved LWRP to assure, among other things, that the local government itself acts consistent with the goals of its approved LWRP.
- (b) The secretary shall, after written notice to the legislative body of the participating local government, revoke approval if at any time he/she finds that the policies and goals of the approved LWRP are not being carried out in accordance with the terms of such LWRP.

§ 601.8 Withdrawal.

A local government may withdraw its approved LWRP at any time as provided in the Executive Law. Withdrawal of an approved LWRP will effect an immediate termination of all benefits accruing under the Executive Law, including but not limited to any funding or other technical assistance and the effect of any local

law or ordinance or portions thereof which required approval of and were approved by the secretary pursuant to section 922 of the Executive Law and Part 603 of this Title.

§ 601.9 Economic distress criteria.

Repealed

19 NYCRR Part 602 - Coastal Area Boundary, Significant Fish and Wildlife Habitats, Important Agricultural Lands and Scenic Resources of Statewide Significance, Identification, Mapping and Designation Procedures
(Statutory authority: Executive Law, §§ 913, 914)

§ 602.1 Authority, intent and purpose.

This Part is adopted pursuant to sections 913(6) and 914(2) of the Executive Law. Its purpose is to implement the coastal area boundary amendment provisions of the waterfront revitalization and coastal resources act, and to establish the procedures and criteria which the Secretary must follow when making designations of significant habitat, agricultural or scenic areas for purposes of Part 600 of this Title. It includes:

- (a) procedural requirements for petitioning the Secretary to amend the coastal area boundary;
- (b) criteria for amending the coastal area boundary;
- (c) procedural requirements for designation of significant coastal fish and wildlife habitat areas, scenic areas of statewide significance and important agricultural lands; and
- (d) criteria for designating significant fish and wildlife habitat areas, scenic areas of statewide significance and important agricultural lands.

§ 602.2 Coastal area boundary amendment procedures.

- (a) Any city, town or village may petition the Secretary to amend the coastal area boundary. Said petition shall be in the form of either:
 - (1) a resolution of the legislative body of the local government within whose geographic jurisdiction the boundary change is located; or
 - (2) an element of a final LWRP submitted pursuant to Part 601 of this Title.
- (b) Any State agency may petition the Secretary to amend the coastal area boundary. Said petition shall be in the form of a letter from the commissioner or other head of the petitioning State agency.
- (c) The Secretary may amend the coastal area boundary on the Secretary's own initiative.
- (d) The Secretary shall amend the coastal area boundary whenever the Secretary determines that the criteria of section 602.3 of this Part have been met. The Secretary shall prepare a written determination with findings in support of each boundary amendment.
- (e) Whenever petitioned pursuant to subdivision (a)(1) or (b) of this section, or acting pursuant to subdivision (c), public notice shall be provided by the Secretary in the State Register and a paper of general circulation in the immediate area to be affected by the proposed boundary change. A public hearing in the vicinity of the proposed boundary change may be held at the Secretary's discretion. The need for a public hearing shall be based upon the likely public interest because of:
 - (1) the uniqueness of the geographic area affected; or
 - (2) the potential impact on coastal resources.

- (f) Whenever the Secretary is petitioned to amend the coastal area boundary, and that petition qualifies under subdivision (a)(1) or (b) of this section, a determination shall be rendered within 120 days of receipt of said petition. Reasons for the denial of any petition request shall be communicated in writing by the Secretary to petitioners.
- (g) Whenever the Secretary determines to amend the coastal area boundary, the Secretary shall make the appropriate changes in the coastal area map and file copies of the amended map with the clerk of each county and local government within whose jurisdiction any of the affected area is located. The Secretary shall also provide a copy of the amended coastal area map to each adjacent local government with any portion of its jurisdiction within the boundaries of the coastal area, and to each appropriate State and Federal agency.
- (h) The boundary change shall take effect on the 15th day of the month following the month during which the amended map shall have been filed in the office of the clerk of the situs city, town or village.

§ 602.3 Boundary amendment criteria.

The secretary shall amend the coastal area boundary whenever the Secretary finds that:

- (a) an amendment would correct an error in the existing boundary; or
- (b) an amendment would be in furtherance of the policies and purposes of article 42 of the Executive Law.

§ 602.4 Significant resource area identification, mapping and designation procedures.

- (a) After consultation with appropriate State agencies, the Secretary shall identify and designate on the coastal area map those significant fish and wildlife habitat areas, scenic areas of statewide significance and important agricultural lands which the Secretary finds satisfy the criteria of section 602.5 of this Part. The Secretary shall prepare a written determination with findings in support of each area to be designated.
- (b) Before any significant fish and wildlife habitat area, scenic area of statewide significance or important agricultural land is designated, timely public notice shall be provided and one or more public hearings held. Notice shall appear in a paper of general circulation in the area of site designation at least 10 days prior to the hearing date. Said hearings shall be held at a location convenient to those who are likely to be affected by or have an interest in such designations. Public notice shall include the time and location of the hearing, identify the areas proposed for designation, facilitate public comment by announcing the availability for inspection of the documentation supporting the nomination of any site proposed for designation, and by requesting public comment and participation at the hearing.
- (c) A significant fish and wildlife habitat area shall be eligible for designation only if it has been identified and recommended for designation by the New York State Department of Environmental Conservation (DEC). The Secretary shall designate all areas identified and recommended by DEC, unless the Secretary finds, after the public review process:
 - (1) that there was an error in the evaluation of the area pursuant to the significant fish and wildlife habitat area criteria of section 602.5(a) of this Part; or

- (2) that designation would not lead to the achievement of the purposes of the significant habitat policy found at section 600.5(b)(1) of this Title.
- (d) Whenever the Secretary, after public notice, hearing and comment pursuant to subdivision (b) of this section, shall determine to designate one or more areas, the Secretary shall make the appropriate significant area identifications on the coastal area map, and file copies of the amended map with the clerks of each county and local government within whose jurisdictions the identified areas are situated. The Secretary shall also provide a copy of the amended coastal area map to each adjacent local government with any portion of its jurisdiction within the boundaries of the coastal area, and to each appropriate State and Federal agency.
- (e) The designation of significant areas shall take effect on the 15th day of the month following the month during which the amended maps are filed in the office of the clerk of the situs city, town or village.
- (f) After consultation with appropriate State agencies, the Secretary may repeal or modify an existing significant area designation, but only after repeating the notice procedure for designation found in subdivision (b) of this section, and only upon a finding that repeal or modification is justified by changes to the characteristics of the area which were the basis for the original or subsequent designation.

§ 602.5 Significant resource area criteria.

- (a) Significant fish and wildlife habitat areas are those habitat areas which:
- (1) exhibit to a substantial degree one or more of the following characteristics:
- (i) the habitat is essential to the survival of a large portion of a particular fish or wildlife population (e.g., feeding grounds, nursery areas);
 - (ii) the habitat supports a species which is either endangered, threatened or of special concern as those terms are defined at 6 NYCRR Part 182;
 - (iii) the habitat supports fish or wildlife populations having significant commercial, recreational or educational value; or
 - (iv) the habitat is of a type which is not commonly found in the State or a coastal region of the State; and
- (2) are to varying degrees difficult or even impossible to replace in kind.
- (b) Important agricultural lands shall meet all of the following criteria:
- (1) the lands have soils classified by the New York State Department of Agriculture and Markets as being within soil group 1, 2, 3 or 4 of their Land Classification System found at 1 NYCRR 370.8 (section filed February 2, 1981, effective February 2, 1981); are unique farmland as defined by the United States Department of Agriculture, Soil Conservation Service, at 7 CFR 657.5(b) (revised as of January 1, 1983; available from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402); or are within an agricultural district created pursuant to article 25AA of the Agriculture and Markets Law and actively used for agricultural purposes;
- (2) the lands are located outside of any city or the County of Nassau, Westchester, Rockland or Erie;

- (3) the lands are part of a parcel of at least 25 acres, or are less than one mile from an area of active farming; and
 - (4) the lands are located outside of any intensely developed area, as those areas are delineated on New York State Department of Transportation's 7½-minute series quadrangle maps as filed with the New York State Department of State on July 3, 1984.
- (c) Scenic areas of statewide significance shall be those areas which the Secretary, upon consideration of the following factors, determines to be of statewide aesthetic significance to the coastal area:
- (1) the area exhibits, alone or in combination, the following characteristics:
 - (i) unusual variety of major components;
 - (ii) unusual unity of major components;
 - (iii) striking contrasts between lines, forms, textures and colors; or
 - (iv) an area generally free of discordant features which, due to siting, form, scale or materials, visually interrupt the overall scenic quality of the resource;
 - (2) the area is unique in the region or the State's coastal area;
 - (3) the area is visually and physically accessible to the general public; or
 - (4) the area is widely recognized by the general public for its visual quality.

19 NYCRR Part 603 - Harbor Management

(Statutory authority: Executive Law, §§ 913, 915, 915-b, 922)

§ 603.1 Authority, intent and purpose.

- (a) This Part is adopted under authority of sections 913, 915, 915-b and 922 of article 42 of the Executive Law to implement the provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.
- (b) In chapter 791 of the Laws of 1992, the Legislature emphasized the importance of New York State's navigable waters and underwater lands, and acknowledged the need to control uses, projects and structures in or over these areas. The Legislature specifically identified the regulation of such projects and structures as necessary to meet the State's obligations, founded principally on the Public Trust Doctrine, to responsibly manage the State's proprietary interests, protect vital assets held in the name of the People of the State, and guarantee common law and sovereign rights. To this end, the Legislature declared that the reasonable exercise of riparian or littoral rights by waterfront owners shall be consistent with the public interest in reasonable use and responsible management of navigable waters and lands underwater for purposes of navigation, commerce, fishing, bathing, recreation, environmental and aesthetic protection, and access. Along with recognizing the importance of State agency actions in fulfilling these obligations, the Legislature also recognized the significant role New York's cities, towns and villages are capable of taking in the regulation and management of activities in or over the State's navigable waters and underwater lands if granted clear authority to regulate these areas. Accordingly, the Legislature has provided for the development and approval of local comprehensive harbor management plans (HMPs) and the local laws or ordinances necessary to implement these plans. It is the intention of this Part to enable cities, towns and villages to exercise this new authority in a manner which meets local needs while accommodating the significant interest of the State, on behalf of the public, in lands underwater and navigable waters. It is the purpose of this Part to provide the procedural and substantive requirement for approval of HMPs and local laws and ordinances necessary to implement these plans.

§ 603.2 Eligibility and authority.

Subject to review and approval by the Secretary of State:

- (a) (1) A city, town or village may adopt a HMP to regulate the surface waters and underwater lands within the city, town or village, or bounding it to a distance of 1,500 feet from shore, whichever is greater.
- (2) Determination of the line from which the 1,500 feet shall be measured shall be made as follows:
 - (i) where the shore is generally even, the 1,500 feet shall be measured from the mean low water line;
 - (ii) where the shore is uneven because of indentations such as coves, small bays, inlets or similar conditions, the 1,500 feet shall be measured from a straight line drawn across the indentation from the two points representing the furthest waterward extent of the mean low water line on either side

- of the indentation. Any water area and underwater lands landward of this line will, however, be subject to harbor management planning and regulation pursuant to this Part;
- (iii) where an offshore island is part of a municipality, the 1,500 feet shall be measured from the mean low water line surrounding the island;
 - (iv) in all instances, the area between the mean low water and mean high water lines shall also be subject to HMP coverage; and
 - (v) whenever necessary the Secretary shall make a determination of the bounds of an HMP area, based upon written findings which take into account the size of the waterbody; existing municipal regulation of waters and underwater lands; the avoidance of conflicts among local, State and Federal governments; and other relevant considerations.
- (b) Subject to the written approval of the Secretary of State, the local legislative body of such city or town may adopt, amend and enforce local laws or ordinances, and a village may adopt, amend and enforce local laws to implement the HMP. Such local laws or ordinances may provide fees for reasonable expenses incurred in carrying out this authority. Proposed local laws and ordinances to implement the HMP shall be submitted to the Secretary of State for approval in accordance with the provisions of section 922 of the Executive Law and section 603.5 of this Part.
- (c) (1) Municipalities on lakes, excepting those on lakes identified in section 911(4) of the Executive Law, may develop cooperative lakewide LWRPs and HMPs, and may adopt, amend and enforce local laws or ordinances to implement such plans.
- (2) In the absence of a cooperative lakewide LWRP and HMP prepared by all of the municipalities on such lake, a municipality may still adopt and have approved a LWRP and HMP, and may adopt, amend and enforce local laws or ordinances to implement the HMP, provided the Secretary of State finds, in approving such local laws or ordinances, that it is consistent with the management of the lake by, and the interests of, the lake residents and its municipalities as a whole.
- (3) Such local laws or ordinances shall also be consistent with the plans of any organization created by statute to provide lakewide planning or regulation.
- (d) As provided in section 119-o of the General Municipal Law, other municipalities may adopt cooperative HMPs and may adopt, amend and enforce local laws or ordinances to cooperatively implement such plans.

§ 603.3 Contents.

At a level of detail and to the extent commensurate with the particular circumstances of the local government(s), an HMP shall contain, either in a separate document prepared to augment an LWRP or integrated into a LWRP in an identifiable manner, the following:

- (a) identification of the HMP boundary area;
- (b) an inventory and analysis of existing uses, features and conditions in this area;
- (c) identification and discussion of issues of local importance;
- (d) identification and discussion of issues of regional importance;
- (e) discussion of opportunities, long and short-term goals and objectives;

- (f) identification of conditions which operate as constraints on utilization of underwater lands and navigable waters by the public;
- (g) discussion of water dependent uses;
- (h) identification and discussion of economic, cultural and social considerations fundamental to responsible management of underwater lands and navigable waters;
- (i) a water use plan;
- (j) specification of policies concerning present and future use and management of such areas;
- (k) identification of capital projects necessary to implement the HMP;
- (l) specification of existing and proposed techniques and authorities to implement the HMP; and
- (m) to the extent commensurate with the particular circumstance of the city, town or village, a HMP shall address the following considerations:
 - (1) conflict and competition for space among the uses and users of harbors, surface waters and underwater lands;
 - (2) regulation of the construction, size and location of wharves, docks, moorings, piers, jetties, platforms, breakwaters or other structures, whether temporary or permanent;
 - (3) regional needs for any of the various uses or users likely to be attracted to the particular qualities of the area; and
 - (4) where applicable:
 - (i) commercial shipping;
 - (ii) recreational boating;
 - (iii) commercial and recreational fishing and shellfishing;
 - (iv) aquaculture and mariculture;
 - (v) waste management;
 - (vi) mineral extraction;
 - (vii) dredging;
 - (viii) public access;
 - (ix) recreation;
 - (x) habitats and other natural resource protection;
 - (xi) water quality;
 - (xii) open space;
 - (xiii) aesthetic values;
 - (xiv) water dependent uses;
 - (xv) common law riparian or littoral rights; and
 - (xvi) public interests, including interest under the Public Trust Doctrine; and
- (n) HMPs shall also consider other circumstances determined to be of significance by the Secretary of State, and HMPs may also consider those determined to be of significance by the city, town or village.

§ 603.4 Development.

- (a) HMPs shall be developed with the participation of the public, and Federal, State and local governments and agencies.
- (b) Within the limits of appropriated funds, the Department of State will be available for guidance and assistance.
- (c) A schedule for incremental completion, submission of work products and final adoption and submission of the HMP shall be agreed to between the participating city, town or village and the Department of State.

§ 603.5 Review and approval.

- (a) HMPs shall be reviewed and approved in accordance with Part 601 of this Title.
- (b) (1) Local laws or ordinances to implement the HMP shall be developed with the secretary, and shall be submitted for review and comment a reasonable time prior to the scheduling of any public hearing on any such local law or ordinance.
(2) In order to ensure the effectiveness of such local laws or ordinances under section 922 of the Executive Law and whatever general or specific authority pursuant to which they are enacted, the secretary shall approve and the municipality shall adopt any local laws or ordinances in a coordinated manner.

§ 603.6 Participation by municipalities with approved LWRPs or LWRPs near approval.

- (a) Cities, towns or villages with approved LWRPs on the effective date of this Part may develop and submit a HMP for review and approval. However, any city, town or village which seeks to amend an approved LWRP must include a HMP for approval in any such amendment. This requirement may be waived by the secretary to the extent commensurate with the particular circumstances of the local government proposing the LWRP amendment.
- (b) Cities, towns or villages which have completed the review period provided in section 601.4 (b) of this Title before July 1, 1994 shall not be required to submit a HMP as a precondition to approval of a LWRP.

§ 603.7 Practical considerations.

- (a) A number of cities, towns and villages in the coastal area of New York State possess either several distinctive harbor areas, or have the clear need to engage in some level of cooperative intermunicipal HMP development and implementation, or both. Resources, public access and other interests may suffer unless the planning process, engaged in by these municipalities, results in expeditious measures to address significant existing and projected conditions in or over navigable waters and underwater lands.
- (b) To accommodate the realities of size, complexity, location or other uniqueness and the need for action, such a municipality may submit a written request to the secretary for permission to prepare an expedited HMP. Any request shall specify those circumstances which justify approval of such a request.

- (c) The secretary shall advise the appropriate municipal officials in writing of his or her decision on the request, and of the terms and conditions applicable to the permission to develop an expedited HMP. The secretary shall also specify any additional requirements for approval of the program and implementing laws.