UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

Mr. E. James Tabor, Chief
Coastal Zone Management Section
Bureau of Watershed Conservation
Department of Environmental Protection
P.O. Box 8555
Harrisburg, PA 17105-8555

JUL 15 1999

Dear Mr. Tabor:

This letter responds to your June 18, 1999 letter requesting that the Office of Ocean and Coastal Resource Management (OCRM) approve the following changes to the Pennsylvania Coastal Zone Management Program (PCZMP) as a routine program change: (1) regulatory changes affecting PCZMP enforceable policies in Title 25 PA Code Chapters 71, 121, 123, 260-266, 270, 271-273, 275, 277, 279, 281, 283, 285, 287-289, 291, 293, 295, 297, 299, and Title 58 of the PA Code, Chapter 75; (2) the addition of one geographic area of particular concern (GAPC); and (3) Notice of Incorporation of changes under the Federal Clean Air and Clean Water Acts.

OCRM concurs with your finding that these proposed changes to the PCZMP are routine and not an amendment to the PCZMP. We find that the proposed changes augment and enhance the existing federally approved PCZMP.

OCRM has identified the following amended enforceable policies as described in your program change analysis: Title 25 PA Code Chapters 71, 121, 123, 260-266, 270, 271-273, 275, 277, 279, 281, 283, 285, 287-289, 291, 293, 295, 297, 299, and Title 58 of the PA Code, Chapter 75. In addition, Title 16 Chapter 38 will be renumbered as Title 12 Chapter 113. These changes will be incorporated into the PCZMP.

In accordance with National Oceanic and Atmospheric Administration regulations at 15 CFR §923.84(b)(4)(C), Federal consistency will apply to these statutes after Pennsylvania publishes notice of our approval.

Please contact Neil Christerson at (301) 713-3113 ext. 167 if you have any questions.

Sincerely,

Joseph A. Uravitch, AICP
Chief
Coastal Programs Division

Printed on Recycled Paper

RPC IX

PROPOSED 1997 ROUTINE PROGRAM CHANGES

TO

PENNSYLVANIA'S COASTAL ZONE MANAGEMENT PROGRAM

MAY 1999

RPC IX
TABLE OF CONTENTS

Page

Introduction 1

Purpose 1

Proposed Changes 2

1997 Regulatory Program Changes

Introduction - General Regulatory Changes 3

25 PA Code Chapters 271-273, 275, 277, 279, 281, 283, 285 and 287 3

Analysis of Impact of Chapters 271-273, 275- 277, 279, 281, 283, 285 and 287 Regulatory Changes 5

Summary and Conclusion of Chapters 271-273, 275-277, 279, 281, 283, 285 and 287 Regulatory Changes 6

25 PA Code Chapters 260-266 and 270 6

25 PA Code Chapters 261-262 and 264-266 8

Analysis of Impact of Chapters 260-266 and 270 Regulatory Changes 12

Summary and Conclusion of Chapters 260-266 and 270 Regulatory Changes 13

25 PA Code Chapter 71 13

Analysis of Impact of Chapter 71 Regulatory Changes 15

Summary and Conclusion of Chapter 71 Regulatory Changes 16

58 PA Code Chapter 75 16

Analysis of Impact of Chapter 75 Regulatory Changes 16

Summary and Conclusion of Chapter 75 Regulatory Changes 16

25 PA Code Chapters 121 and 123 17

Analysis of Impact of Chapters 121 and 123 Regulatory Changes 17

Summary and Conclusion of Chapter 121 and 123 Regulatory Changes 18

25 PA Code Chapters 271-273, 277, 279, 281, 283, 285, 287-289, 291, 293, 295, 297 and 299 18

Analysis of Impact - Chapters 271-273, 277, 279, 281, 283, 285, 287-289, 291, 293, 295, 297 and 299 Regulatory Changes 21

Summary and Conclusion - Chapters 271-273, 277, 279, 281, 283, 285, 287-289, 291, 293, 295, 297 and 299 Regulatory Changes 21

Introduction - Regulatory Renumbering 22
Act 58 Regulatory Renumbering - Title 16, Chapter 38 22
Analysis of Impact - Act 58 Regulatory Renumbering 22
Summary and Conclusion - Act 58 Regulatory Renumbering 23

1997 Changes to Geographic Areas of Particular Concern

Introduction - GAPC Changes 24
Addition of Dobosiewicz Farm GAPC 24
Analysis of Impact - Addition of Dobosiewicz Farm GAPC 24
Summary and Conclusion - Addition of Dobosiewicz Farm GAPC 25

1997 Regulatory Changes Required Under the Federal Clean Air and Clean Water Acts

Introduction - Incorporation of Water Pollution and Air Pollution Requirements 26
Chapter 93 26
Chapters 121 and 123 27
Notice of Incorporation of Federal Water Pollution and Air Pollution Requirements 27

RPC IX

PROPOSED 1997 ROUTINE PROGRAM CHANGES TO PENNSYLVANIA'S COASTAL ZONE MANAGEMENT PROGRAM

INTRODUCTION

Under the Federal Coastal Zone Management (CZM) Act, coastal states can modify their approved CZM Programs. The Commonwealth of Pennsylvania is now submitting to the National Oceanic and Atmospheric Administration (NOAA) these modifications as Routine Program Changes (RPCs) rather than Program amendments. **An RPC is defined in CZM regulations (15 C.F.R. Section 923.84) as, "Further detailing of a state's program that is the result of implementing provisions approved as part of the state's approved management program that does not result in (an amendment)."**

An amendment is defined (15 C.F.R. Section 923.80(d)) as "Substantial changes in one or more of the following five coastal management program areas:

1. **Uses Subject to Management** (15 C.F.R. Part 923, Subpart B) (i.e., permissible land and water uses within a coastal zone which have a direct and significant impact in coastal waters),

2. **Special Management Areas** (15 C.F.R. Part 923, Subpart C) (i.e., criteria or procedures for designating or managing geographical areas of particular concern, or areas for preservation or restoration),

3. **Boundaries** (15 C.F.R. Part 923, Subpart D),

4. **Authorities and Organization** (15 C.F.R. Part 923, Subpart E) (i.e., the state regulations and organizational structure on which a state will rely to administer its coastal management program), and

5. **Coordination, Public Involvement, and National Interest** (15 C.F.R. Part 923, Subpart F) (i.e., coordination with governmental agencies having interest and responsibilities affecting the coastal zone; the involvement of interest groups as well as the general public; and the provision for adequate consideration of the national interest involved in planning for and managing the coastal zone, including the siting of facilities (such as energy facilities) which are of greater than local significance).

PURPOSE

Therefore, the purpose of this paper is to demonstrate to NOAA that the following proposed changes to Pennsylvania's CZM Program are not substantial (amendments), but are routine changes that further detail this Program.

PROPOSED CHANGES

Several CZM Program changes have occurred in 1997. The Commonwealth of Pennsylvania is submitting these proposed changes to NOAA's Office of Ocean and Coastal Resource Management as RPCs, and not amendments.

The following are proposed RPCs to the Commonwealth of Pennsylvania Coastal Zone Management Program, and Final Environmental Impact Statement (FEIS) (August 1980). These changes are to:

Chapter 2 - Coastal Zone Policy Framework, and concern general regulatory changes affecting the CZM Program's enforceable authorities;

Chapter 3 - Special Management Concerns, and concern revisions to CZM's Geographic Areas of Particular Concern.

This RPC discusses every program change that has occurred in 1997, provides an analysis of the impact that the change will have on Pennsylvania's CZM Program, and a justification as to why the change constitutes an RPC and not a program amendment, as defined by the federal CZM regulations.

1997 REGULATORY PROGRAM CHANGES

INTRODUCTION - GENERAL REGULATORY CHANGES

CZM's enforceable policies are based on Department of Environmental Protection's (Department) regulations which are incorporated into this Program. These regulations were in effect at the time of original CZM Program approval in 1980. However, over time these regulations have been amended, and as such change Pennsylvania's originally approved CZM Program. These subsequent changes will further detail the original Program.

The regulatory amendments which are presently in effect statewide, have been subjected to public comments and hearings, and have been approved by the Commonwealth's Environmental Quality Board, and Independent Regulatory Review Committee.

25 PA CODE CHAPTERS 271-273, 275, 277, 279, 281, 283, and 285 – Municipal Waste; Sewage Sludge; and

25 PA CODE CHAPTER 287 – Residual Waste (Amended January 1997)

Chapters 271-273, 275, 277, 279, 281, 283, and 285 contain the Commonwealth's municipal waste regulations. Chapter 287 contains the state's residual waste regulations.

Prior to 1988, the Commonwealth allowed sewage sludge to be land applied under individual permits. In 1988, amendments to the Solid Waste Management Act required the Department to establish waste regulations to effectuate the beneficial use of municipal and residual waste, including regulations for the issuance of general permits for any category of beneficial use or processing of municipal or residual waste on a regional or statewide basis.

In 1994, in response to stakeholder's concerns, the Department streamlined the permitting process for land applications by developing new regulations. The 1997 regulatory amendments discussed here, represent the final phase of this streamlining. Proposed Chapter 271 Subchapter I (relating to beneficial use) authorizes the issuance of general permits for the processing or beneficial use, or both, of municipal waste. It does not authorize the issuance of general permits for the processing or beneficial use of infectious or chemotherapeutic waste. Additionally, it does not authorize general permits for the beneficial use of sewage sludge by land application; these are authorized by proposed Subchapter J.

The Commonwealth has also revised Chapter 287 of the residual waste regulations, to address a few relatively minor issues relating to the general permits program, to clarify obligations for permit-by-rule facilities, to add new categories of activities to the permit-by-rule section, and to streamline the procedures for allowing the beneficial use of coal ash.

The changes associated with the general permits program will provide consistency in the implementation of general permits between the municipal waste and residual waste programs. In addition, the regulations allow mixtures of residual and municipal wastes to be managed under one general permit.

These regulatory changes will streamline and improve the current land application requirements, resulting in a more rapid permit response by the Department and decreased costs to the operator. There are approximately 3,000 municipal wastewater treatment plants located in this Commonwealth. It is anticipated that over half of these facilities will opt to land apply under the new system.

These new regulations will eliminate sewage sludge generators' need for expensive application preparation costs associated with a site specific application for those activities which will now be covered under a general permit. Generators will benefit from reduced costs for preparation of a general permit application, and the Department will benefit from reduced staff time required for reviewing site specific applications. Those treatment plants that generate Exceptional Quality (EQ) sewage sludge, which is similar to fertilizer, may apply it to land under the regulations without site management practices.

Some specific amendments are:

§271.1. Definitions.

The definition of "transfer facility" was revised to be identical to that in the state's Solid Waste Management Act and in the residual waste regulations

Other definitions added to this section include "intermittent stream", "bag or container", "cover crop", "frozen ground", "municipality and person", "pasture", "range land", and "wetlands". Finally, the following Environmental Protection Agency (EPA) definitions were added because they are used in Subchapter J and did not exist in current or proposed state regulations: "*Domestic sewage, feed crops, fiber crops, food crops, industrial wastewater, pollutant, pollutant limit, public contact site, runoff, treat or treatment of sewage sludge, treatment works."*

§271.103. Permit-by-rule for municipal waste processing facilities other than for infectious or chemotherapeutic waste; qualifying facilities; general requirements.

This section was revised to clarify that the facility must have a permit issued by the Department under The Clean Streams Law for the facility's wastewater treatment process or a permit issued by the Department's waste management program, or the discharge must be connected to a public sewer.

§§271.811(e) Authorization for general permit.

This section was amended to authorize the beneficial use of mixtures of municipal and residual wastes, and has deleted the provisions concerning on-farm composting of mixtures of certain materials with food processing waste or agricultural waste. The new subsection covers these mixtures. Corresponding changes have been made to the residual waste regulations in § 287.601.

§§271.901-271.934 Subchapter J. - Beneficial use of sewage sludge by land application.

This subchapter adopted verbatim the EPA's Standards for the Use or Disposal of Sewage Sludge (Part 503) at 58 FR 9387 (February 19, 1993). Part 503 is codified at 40 CFR Part 503. The Federal rule applies to land application, surface disposal and incineration of sewage sludge. Subchapter J applies only to land application of sewage sludge.

§271.903. Operation under existing permits and beneficial use orders.

This section was revised for current holders of beneficial use orders during the transition period to general use permits. This regulation provides for a 5-year transition period, and has expanded it to cover individual and general Land Application of Sewage Sludge permits, and adds a 5-year expiration date for permits that do not contain an expiration date.

§271.913(h) – General requirements

This section requires that a background soil analysis is only required to be performed prior to the first land application at a particular location, and not at all for land application of EQ sewage sludge.

§271.915 – Management practices

This section provides various distances for certain land features that must be followed during land application of sewage sludge. The distance from an intermittent stream is 33 feet to be consistent with Part 503. The distance to the seasonal high water table, with and without incorporation is 11 inches. Distance to the regional groundwater table was set at 3.3 feet to be consistent with Part 503.

§272.315 – Limits on Department's authority to award grants.

This section was revised to indicate that grants may only be awarded for items which are included in a grant application or which are proposed to be used for the same limited purpose as an item included in a grant application. This change was needed to eliminate confusion which has existed in the past.

§§273.232 and 273.233. – Daily and intermediate cover at landfills.

These sections require daily cover to be capable of controlling fires. This language tracks the Federal language of 40 CFR 258.21.

Chapter 275. – Land application of sewage sludge.

These amendments delete the permit application sections of Chapter 275, because sewage sludge land application permits will now be issued under Chapter 271, Subchapter J which authorizes individual and general Land Application of Sewage Sludge permits to be issued by the Department. Sewage treatment facilities and septage haulers can obtain an individual permit, or apply for coverage under the general permit under Subchapter J, when the permit is completed by the Department and notification of availability of its issuance is published in the *Pennsylvania Bulletin*. Due to the fact that the general permit is initiated and issued by the Department, the application requirements are no longer identified in the regulations but will be identified in the general permit.

§287.611 – Authorization for general permits

This section allows for mixtures of municipal and residual waste to be managed under general permits. Depending on which Article is most appropriate for the management of a facility that handles a mixture of municipal and residual waste, the general permit process under Article VIII or Article IX may apply.

§287.626. – Permit renewal.

This section provides for a permit renewal process for residual waste.

ANALYSIS OF IMPACT – Chapters 271-273, 275, 277, 279, 281, 285 and 287 Regulatory Changes

Chapters 271-273, 275, 277, 279, 281, 285 and 287 are referenced in Policy VIII-1: Energy Facility Siting, found on page II-2-25 of CZM's Final Environmental Impact Statement (FEIS). This policy ensures through regulations, by permit, that energy facilities such as oil and gas refineries, electric generating stations (coal, hydro, oil and gas), electric generating substations, gas drilling, and liquification of natural gas operations locating in the coastal areas, are sited in such a manner that the coastal area ecosystems are not unreasonably adversely affected.

As can be concluded by the previous discussion of these changes, the siting of energy facilities in the coastal areas will not be impacted by the regulatory changes to Chapters 271-273, 275, 277, 279, 281, 283, 285 and 287. Although these regulatory chapters apply to CZM's policy regarding the siting and operation of energy facilities, the changes to the regulations concern the beneficial use of sewage sludge by land application, and authorizes the issuance of general permits for the processing or beneficial use,

or both, of municipal waste. Other regulatory changes were made to be consistent with EPA's Part 503 requirements.

SUMMARY AND CONCLUSION – Chapters 271-273, 275, 277, 279, 281, 283, 285 and 287 Regulatory Changes

The regulatory amendments to Chapters 271-273, 275, 277, 279, 281, 283, 285 and 287 are not substantial changes to the Pennsylvania CZM Program, but are routine. The amendments are in response to concerns raised by stakeholders, and basically streamline the permit process through the use of general permits for the processing or beneficial use of municipal or residual waste. The regulatory amendments will reduce costs for generators of sewage sludge and reduce Department staff time. These amended regulations are currently in use throughout the Commonwealth. This RPC will formally add these regulatory amendments to the CZM Program's enforceable policies. The changes are in keeping with the Pennsylvania CZM Program's and the national CZM objectives and policies.

These changes are routine changes in enforceable policies related to uses subject to management, and CZM Program authorities. Based on the previous discussion and impact analysis of the amendments to Chapters 271-273, 275, 277, 279, 281, 283, 285 and 287, we have determined that these regulatory changes further detail and are routine changes to Pennsylvania's CZM Program.

25 PA CODE CHAPTERS 260-266 and 270 – Hazardous Waste Management (Amended January 1997)

These regulations deal with the management and permitting of hazardous waste facilities in Pennsylvania. These changes amend Chapters 260-266, and 270. Chapters 261, 262, and 264-266, were amended twice in 1997: the following is a discussion of the first set of amendments to these regulations.

These January 1997 amendments incorporate provisions established by the United States Environmental Protection Agency (EPA) to the Federal hazardous waste program, and clarify certain regulatory requirements. Many of the amendments are necessary to retain final authorization under the Federal Resource Conservation and Recovery Act of 1976 (RCRA). Others are adopted to implement obligations under Pennsylvania's Solid Waste Management Act.

States with final authorization under Section 3006(b) of RCRA have a continuing obligation to maintain a hazardous waste program that provides adequate enforcement, and is at least as stringent and broad in scope as the Federal hazardous waste program. Pennsylvania received final authorization for its hazardous waste program on January 30, 1986. The primary reason for these regulatory amendments is to update portions of the Commonwealth's authorized program by incorporating Federal provisions.

These regulatory amendments include a number of diverse changes that will facilitate hazardous waste management for industries of all sizes, licensed hazardous waste transporters, and owners and operators of hazardous waste facilities in this Commonwealth. Generators, transporters and treatment, storage and disposal (TSD) facilities are relieved of a number of unnecessary regulatory burdens. This regulatory package also aligns the Department's hazardous waste program more closely to the Federal program by adopting several Federal subchapters, sections and definitions.

Some specific amendments are:

§260.2. Definitions.

The existing definition of "in-transit storage" was clarified to conform with the new amendment to § 263.27 (relating to blending, mixing, treating or storing of hazardous waste by transporters) which allows licensed transporters to combine similar hazardous wastes during transportation.

The definition of "miscellaneous unit" has been added to clarify the new subchapter regulating miscellaneous units at §§ 264.600-264.603. The Federal definition of "Small Quantity Generator" has also been added to the final amendments. Under both the Federal and State programs, this category of generators includes those that generate no more than 1,000 kilograms of hazardous waste per month.

§261.33. Waste commercial chemical products, off-specifications species, containers, container residues and residues thereof.

The amendments to the existing provisions at § 261.33 (relating to waste commercial chemical products, off-specification species, containers, container residues and spill residues thereof) transferred the requirements for identifying and managing RCRA-empty containers to a new section at § 261.7 (relating to empty containers). Amended § 261.33 now identifies requirements for listed hazardous wastes that are EPA P and U (wastes not meeting EPA specifications) listed wastes. These changes are consistent with the Federal program.

§261.5. Scope.

The amendments changed §§ 261.5 and 262.10(a) (relating to special requirements for hazardous waste generated by conditionally exempting small quantity generators; and scope) to conform with the corresponding Federal sections which cover generators of less than 100 kg of hazardous waste per month. These Conditionally Exempt Small Quantity Generators (CESQGs) typically are small businesses such as automotive repair shops, printers, dry cleaners, retail paint stores, funeral homes or laboratories. Small businesses that generate less than 100 kilograms of hazardous waste per month have been subject to reduced storage, treatment, transportation requirements under the Federal RCRA program since 1986. This category of very small, partially exempt generators has never been recognized in Pennsylvania's regulations until this rulemaking.

§262.41. Biennial report.

This regulation has been amended and clarified. Section 262.41 (and §§264.75 and 265.75 relating to biennial reports) deletes quarterly reporting requirements for generators and facilities and substitutes instead a biennial reporting requirement that is substantially the same as the EPA biennial report.

Under the amendments, generators and owners/operators of TSD facilities are required to submit reports concerning hazardous waste management at the facility biennially, rather than quarterly. The amendments have been clarified to show that the report need only cover hazardous waste activities during the prior calendar year, not the prior two years. The content of the biennial report has been modified to match applicable Federal biennial reporting requirements, including Federal requirements for waste minimization and pollution prevention.

Small quantity generators, which generate between 100 and 1,000 kilograms of hazardous waste per month, and conditionally exempt small quantity generators, which generate less than 100 kilograms of hazardous waste per month, are not required to submit biennial reports under §262.41(a).

Section 266.91 (relating to reporting) has been deleted entirely in the final rulemaking. This section formerly required owners and operators of facilities that reclaim their waste onsite to submit a quarterly report.

§263.27. Blending, mixing, treating or storing of hazardous waste by transporters.

This section authorizes combining or bulking of similar hazardous wastes by a licensed transporter. The definition of "in-transit storage" in §260.2 (relating to definitions) is amended to conform with this change by deleting the requirement that the waste remain in its original container. Hazardous wastes that are

bulked by a licensed transporter must be packaged, labeled, marked and placarded according to §§262.30 and 262.33 (relating to packing, labeling and marking; and accumulation).

§264.12. General requirements for hazardous waste management approvals and analysis of a specific waste from a specific waste generator.

Generators located in this Commonwealth are required to develop and submit a Source Reduction Strategy under existing regulations at §262.80 (relating to source reduction strategy). A TSD facility shall submit a copy of this Source Reduction Strategy to the Department as a part of an application to receive the generator's waste for storage, treatment or disposal. This requirement in §264.12 (relating to general requirements for hazardous waste management approvals and analysis of a specific waste from a specific waste generator) has been modified to allow a TSD facility to submit other documentation that a generator customer located outside this Commonwealth has complied with Federal waste minimization requirements in lieu of compliance with §262.80.

Sections 264.13 and 265.13 were also changed to reflect that a permitted facility receiving hazardous waste from a generator for the first time shall have a copy of the generator's source reduction strategy.

§264.71(d). Use of manifest system.

This section has reduced the record retention requirements from 20 years to 3 years. The reduced record retention time is consistent with federal standards. Sections 264.71(d) and 265.71(d) (relating to use of manifest system) have also been modified for consistency with the Federal program. The 20-year record retention requirement for copies of manifests by facility owners and operators has been reduced to 3 years.

25 PA CODE CHAPTERS 261, 262 and 264-266 - Hazardous Waste Management – Universal Waste Rule (Amended June 1997)

The following is a discussion of the second set of amendments to these regulations in 1997.

These June 1997 regulatory amendments deal with the management of hazardous wastes.

These regulatory amendments add the Universal Waste Rule to the Department's hazardous waste management regulations. The Universal Waste Rule is a set of environmentally protective, simplified standards for the management of certain wastes identified as universal wastes. Universal wastes share the following common characteristics:

1. They are frequently generated in a variety of settings other than the industrial settings usually associated with hazardous wastes.

2. They are generated by a vast community, the size of which poses implementation difficulties for both those who are regulated and the regulatory agencies charged with implementing the hazardous waste program.

3. They may be present in significant volumes in nonhazardous waste management systems.

These amendments will facilitate the recycling of spent batteries and mercury-containing thermostats, and the disposal of recalled pesticides, while ensuring that the environment and the public's health, safety and welfare are adequately protected.

These amendments also align more closely the Department's regulations with the Federal program. The Universal Waste Rule adopted by the Department is essentially equivalent to the Universal Waste Rule adopted by EPA, 40 CFR Part 273 (relating to standards for universal waste management).

The Universal Waste Rule is designed to apply to certain widely generated hazardous wastes that are not appropriately managed under the existing regulations. Three types of wastes are defined as a universal waste. These wastes are: nickel cadmium and other batteries, hazardous waste pesticides that are either recalled or collected in a waste pesticide collection program, and mercury-containing thermostats. Additional types of hazardous waste can also be managed in a manner consistent with the Universal Waste Rule if they are added to the EPA's Universal Waste Rule or if they are added to Pennsylvania's Universal Waste Rule by the rulemaking petition process.

Adopting the Universal Waste Rule will prevent pollution by facilitating the recycling or proper disposal of these wastes. The complexity and costs of complying with the full hazardous waste regulations inhibit the creation of systems for the collection and transportation of universal wastes to recycling or hazardous waste disposal facilities. The Universal Waste Rule establishes environmentally protective streamlined standards for the collection and transportation of these wastes. By making these management standards less complex and less costly to comply with, the creation of universal waste systems will be facilitated.

These regulatory changes amend Chapter 266 (relating to special standards for certain hazardous waste activities) by adding six subchapters defining the universal waste program. These subchapters are: J (relating to general); K (relating to standards for small quantity handlers of universal waste); L (relating to standards for large quantity handlers of universal waste); M (relating to standards for universal waste transporters; N (relating to standards for destination facilities); O (relating to import requirements) and P (relating to petitions to include other wastes under Chapter 266 as universal wastes). In addition, there are some technical amendments to Chapter 261 (relating to criteria, identification and classification of hazardous waste); §§262.10(a) (relating to scope); 264.1(c) (relating to scope); 265.1(c) (relating to scope); and 266.80 (relating to reclaimed spent lead acid batteries: applicability and requirements).

Universal Waste Handler

A key participant in the universal waste system is the universal waste handler. A universal waste handler is a person who either generates universal waste or who accumulates universal waste for transfer to another facility (collection facility). Except for some basic management activities, a universal waste handler cannot treat/recycle, or dispose of a universal waste.

There are two types of universal waste handlers, large and small quantity handlers. The distinction between a large quantity handler of universal waste (LQHUW) and a small quantity handler of universal waste (SQHUW) is the amount of waste accumulated onsite at any time. A universal waste handler that accumulates at any time onsite 5,000 kg or more total of universal wastes is an LQHUW.

A SQHUW that any one time accumulates 5,000 or more kgs becomes an LQHUW for the remainder of the calendar year. In the following year, the handler can operate as a SQHUW provided it does not accumulate onsite 5,000 kgs or more at any time.

It is anticipated that the SQHUW category with its reduced management standards will facilitate the creation of universal waste collection facilities for consumers and small businesses. These collectors will frequently be retail-type operations participating in a National collection program, such as, a department or specialty store that has a spent battery collection box. These collectors would likely accumulate only small quantities of universal waste because only a minor portion of their business is devoted to managing waste, and because they would ship wastes frequently using package shipping services or similar systems set up by the collection programs. As a result, the standards for SQHUWs will ensure that the environment and the public is protected and will minimize the cost of operating a universal waste collection facility.

The requirements applicable to LQHUWs and SQHUWs are found in Subchapters K and L. Most of the requirements are the same for SQHUWs and LQHUWs. The discussion will indicate when LQHUWs and SQHUWs are subject to different standards.

The Universal Waste Rule creates a Permit-By-Rule (PBR) for the management of universal waste by a universal waste handler. The universal waste handler obtains this PBR by complying with the applicable requirements for an LQHUW or an SQHUW.

This PBR was created to satisfy sections 401 and 501 of the Commonwealth's Solid Waste Management Act (35 P.S. §6018.401 and 6018.501) which require a permit for the storage and treatment of hazardous waste. This is because a universal waste handler is authorized to conduct some activities, such as draining batteries and removing mercury ampules from thermostats, that constitute treatment under the Solid Waste Management Act.

This PBR makes the Department's Universal Waste Rule different, but not more stringent than the EPA's Universal Waste Rule. The EPA exempts universal waste handlers from the requirement to obtain a permit. Nonetheless, the Department's Universal Waste Rule is not more stringent than the EPA's Universal Waste Rule because a universal waste handler is subject to the same requirements under both rules.

In general, universal waste handlers are only authorized to collect, store and package universal waste for shipping. The universal waste must be stored and packaged in a manner that prevents releases to the environment. Except for the draining of batteries and the removal of mercury ampules from thermostats, a universal waste handler is prohibited from treating or disposing of universal wastes.

LQHUWs and SQHUWs are subject to different notification requirements. Only LQHUWs are required to notify the Department and the EPA of their universal waste handling activities. SQHUWs are not subject to this notification requirement.

Universal waste handlers are required to label and mark all shipping containers. The label must identify the material contained therein either as a universal waste, a waste or a used material.

Universal waste handlers can store universal waste for up to 1 year. This time limit may be exceeded if additional time is necessary solely to facilitate the proper recycling or disposal of the waste. Universal waste handlers must be able to demonstrate the length of time the waste has been accumulated.

Universal waste handlers must immediately contain any releases of universal waste and other residues from universal waste. Universal waste handlers must characterize the materials generated by the release. If this material is determined to be hazardous, then it is managed in accordance with the hazardous waste regulations. Universal waste handlers assume generator responsibility for the material generated by the release.

Universal waste handlers can only send or receive universal waste from another handler, destination facility or a foreign destination. Universal waste handlers who self-transport universal waste must comply with the universal waste transporter requirements. Also, any universal waste that is a United States Department of Transportation (U.S. DOT) hazardous material must be shipped in accordance with the applicable U.S. DOT regulations, 49 CFR Parts 171-180.

Prior to shipping universal waste, the originating universal waste handler must ensure that the receiving facility will accept the shipment. The originating handler is also responsible for receiving any load or partial load that has been rejected by the receiving facility. However, the originating handler and the receiving facility can jointly agree upon another destination facility to receive the rejected load.

Universal waste handlers that receive a shipment of hazardous waste that is not a universal waste, must immediately notify the Department's appropriate regional office. The regional office will provide

instructions on managing the hazardous waste. Shipments of nonhazardous waste are to be managed in accordance with the applicable municipal or residual waste regulations.

Universal Waste Transporters

Another participant in the universal waste system is the universal waste transporter. Universal waste transporters are persons engaged in the transportation of universal waste. The requirements applicable to universal waste transporters are found in Subchapter M.

Persons who transport universal waste in accordance with the requirements of Subchapter M are deemed to have a universal waste transporters license. This license-by-rule implements section 501 of the Solid Waste Management Act (35 P.S. § 6018.501) which requires that hazardous waste be transported by a licensed transporter.

The granting of a license makes the Department's Universal Waste Rule slightly different from, but not more stringent than, the EPA's Universal Waste Rule. As with all other hazardous waste transporters, the EPA Universal Waste Rule does not require universal waste transporters to obtain a license. The Department's Universal Waste Rule is not more stringent than EPA's Universal Waste Rule because the two rules have the same requirements.

Universal waste transporters are prohibited from disposing of, diluting or treating universal waste. This prohibition is not applicable to treatment activities necessary to respond to a release.

Universal wastes can be stored for up to 10 days at a universal waste transfer facility without the transporter having to comply with any additional requirements. A universal waste transporter who complies with the applicable universal waste handler requirements can store universal wastes for more than 10 days.

A universal waste transporter must immediately contain any releases of universal waste. The transporter must characterize the materials generated by the release. If this material is determined to be hazardous, it is managed under the hazardous waste regulations. The transporter assumes generator responsibility for this material.

A transporter cannot knowingly accept a shipment of universal waste destined for export that does not conform to the EPA acknowledgement of consent. In addition, the transporter must ensure that the shipment is accompanied with the EPA acknowledgement of consent and is delivered to the designated facility.

Destination Facilities

A destination facility is any facility that treats/recycles or disposes of universal waste. Except as modified by Subchapter N (relating to standards for destination facilities), a destination facility is subject to the applicable regulations for a hazardous waste treatment/recycling, or disposal facility.

A shipment of universal waste can be rejected, in whole or in part, by the owner or operator of a destination facility. The owner or operator of the destination facility must notify the shipper of the rejected load. The rejected load can be returned to the shipper. Alternatively, if the shipper agrees, the rejected load can be sent to another destination facility.

If a destination facility receives a shipment of hazardous waste that is not a universal waste, the owner or operator must immediately notify the appropriate regional office of the Department. The regional office will provide the owner or operator with instructions on managing the hazardous waste. Any shipments of non-hazardous waste are to be managed in accordance with the applicable municipal or residual waste regulations.

The owner or operator of a destination facility must document each shipment of universal waste received at the facility. The documentation can take the form of a log, invoice, manifest, bill of lading or other shipping document. The documentation must identify the shipper, quantity of each type of universal waste received and the date of the shipment was received. These records are to be retained for 3 years from the date of receiving the shipment.

Import Requirements

Subchapter O contains the standards applicable to universal waste shipped from a foreign country. In short, once universal waste from a foreign country enters this Commonwealth, it is managed like universal waste generated within this Commonwealth.

Including Additional Hazardous Wastes Under the Universal Waste Rule

Subchapter P creates two mechanisms for adding new types or categories of hazardous waste to the Universal Waste Rule. These mechanisms are incorporated by reference and a rulemaking petition process.

The incorporation by reference provision automatically amends the Department's Universal Waste Rule to include any changes to the EPA's Universal Waste Rule. Thus, any new type or category of hazardous waste added to the EPA Universal Waste Rule is automatically added to the Department's Universal Waste Rule.

The rulemaking petition process contains procedures and criteria applicable to petition the Pennsylvania Environmental Hearing Board and the Department, to amend Pennsylvania's Universal Waste Rule to add another type or category of universal waste.
By including this rulemaking petition process in the Universal Waste Rule, once the Universal Waste Rule becomes part of Pennsylvania's authorized program, any new type or category of hazardous waste added to the Universal Waste Rule, through the petition process, becomes part of Pennsylvania's authorized program. The rulemaking petition process contains all the procedural and substantive requirements found in the EPA's Universal Waste Rule petition process. The EPA is encouraging states to include this petition process in their own Universal Waste Rule. Additional wastes deemed universal wastes under the petition process become part of the state's authorized program.

Miscellaneous Amendments

Pennsylvania's Universal Waste Rule, like EPA's Universal Waste Rule, exempts hazardous wastes managed as a universal waste from the quantity determination used to qualify for conditionally exempt small quantity generator status. This exemption should encourage generators to participate in the universal waste program. The other amendments to Chapters 261, 264 and 265 merely make it clear that universal wastes are to be managed in accordance with the requirements of Chapter 266, Subchapters J-O, and not the normal hazardous waste regulations.

ANALYSIS OF IMPACT – Chapters 260-266, and 270 Regulatory Changes

These regulatory chapters are contained in Policy VIII-I: Energy Facility Siting/Permitting found on page II-2-25 of CZM's FEIS. This policy ensures through regulations, by permit, that energy facilities such as oil and gas refineries, electric generating stations (coal, hydro, oil and gas), electric generating substations, gas drilling, and liquification of natural gas operations locating in the coastal areas are sited in such a manner that the coastal areas' ecosystems are not adversely affected.

These regulatory amendments deal with hazardous waste. Specifically, they manage and permit hazardous waste facilities in Pennsylvania. As can be concluded by the previous discussion of changes, the siting of energy facilities in the coastal areas will not be affected by the regulatory changes to Chapters 260-266 and 270.

The January 1997 amendments to these regulations were made to update portions of the Commonwealth's authorized hazardous waste program, and clarify certain regulatory requirements. Primarily, many of the amendments are necessary to retain federal authorization under RCRA. The regulatory amendments to Chapters 260-267 and 270 will be beneficial to energy producing facilities, after they have been sited and constructed in Pennsylvania's coastal areas.

The second set of amendments (June 1997) add a Universal Waste Rule to DEP's hazardous waste management regulations. The purpose of these amendments was to add regulations that would simplify standards for the management of certain wastes that have been identified as universal wastes. The regulations also provide for two mechanism for adding new types or categories of hazardous waste to the Universal Waste Rule.

These amended regulations will not impact the siting of energy producing facilities in the coastal areas, but may be beneficial to them and other industries after they have been sited and constructed in Pennsylvania's coastal areas.

These regulatory amendments will also benefit other facilities in the coastal areas that generate hazardous wastes, by relieving them of unnecessary regulatory burdens.

SUMMARY AND CONCLUSION – Chapters 260-266 and 270 Regulatory Changes

The regulatory amendments to Chapters 260-266 and 270 are not substantial changes to the Pennsylvania CZM Program, but are routine. The amended regulations are currently in use throughout the Commonwealth. Since the original regulations were incorporated into Pennsylvania's CZM Program, their amendments will also serve to strengthen the CZM Program. These changes are in keeping with the Pennsylvania CZM Program's and the national CZM objectives and policies.

These changes are routine changes in enforceable policies related to uses subject to management, and CZM Program authorities. Based on the previous discussion and impact analysis of the amendments to Chapters 260-266 and 270, we have determined that these regulatory changes further detail and are routine changes to Pennsylvania's CZM Program.

25 PA CODE CHAPTER 71 – Sewage Facilities (Amended November 1997)

Chapter 71 concerns the administration of Pennsylvania's sewage facilities planning program. This chapter governs the sewage planning requirements for sewage facilities being proposed by municipalities to resolve existing sewage disposal problems, provides for the sewage disposal needs of new land development, and provides for future sewage disposal needs of a resident or landowner in a municipality.

During its 1994 session, the General Assembly enacted Act 149, which substantially amended the Pennsylvania Sewage Facilities Act (35 P.S. §705.1-750.20) (Act). Several provisions of Act 149 became effective immediately upon enactment. With the exception of several provisions, the remainder of Act 149 became effective on December 15, 1995.

One of these excepted sections, Section 7.3 was enacted in 1996 along with subsequent regulations. These were previously discussed in CZM's RPC-VIII dated July 1998.

The second excepted sections (Sections 5, 6, and 8) were enacted in 1997, and will be discussed in this RPC. These 1977 regulatory amendments implement the remaining provisions of Act 149.

Generally, these amendments update technical standards for onlot sewage treatment systems.
Some proponents of new residential subdivision plans will qualify for an exemption from sewage facility planning requirements for their development. In addition, developers and builders will be able to receive

deemed approvals if an agency responsible for reviewing sewage facilities plans or onlot sewage system permit applications or both, does not act in a time period specified in the Act or these regulations. This elimination of some planning and the requirements for action within certain timeframes are expected to be of benefit to builders, developers, realtors and mortgage lenders.

The amendments to Chapter 71 include provisions relating to revised planning review processes outlined in Act 149, delegated agencies, permitting and technical requirements relating to individual residential spray irrigation systems, review fees, permitting by local agencies, reimbursements and multimunicipal local agencies.

The following are 1997 amendments to Chapter 71.

§71.1 – Definitions

The existing definition of "small flow treatment facilities" is changed to make it clear that the method of final disposal of effluent from such a system is a stream discharge or other disposal method approved by the Department. The existing definition limits the discharge to a stream discharge or discharge to the surface of the ground.

A definition of "working day" has been added to provide a consistent basis for completeness determinations under section 5(e)(2) of the Act.

§71.14. – Private request to revise official plans.

This section includes a provision that the Department will inform certain enumerated local and county agencies of its receipt of a private request and that any written comments these agencies wish to provide must be submitted to the Department within 45 days of the Department's receipt of the private request.

In addition, §71.14(a) has been amended to make it clear that, as part of the notification process, a person submitting a private request must, at the same time the person notifies the Department, notify not only the municipality, but also the municipal planning agency and appropriate planning commission, and must also include copies of the same documentation that was submitted to the Department supporting the private request. This change will ensure that the appropriate agencies authorized to comment on the private request have the appropriate documents to review early in the process, regardless of the time it takes the Department to forward the information.

§71.31 – Municipal responsibility to review, adopt and implement official plans.

This revision deals with the public notification provisions of subsection (c). The existing provision provides, in relevant part, that the published notice is to contain a summary description of the nature, scope and location of the planning area and the plan's major recommendations. This provision has been clarified in the regulations to address those plans which propose a discharge to a body of water which is designated as "high quality" or "exceptional value" under Chapter 93 (relating to water quality standards). Notices involving these proposals must now include the antidegradation classification of the receiving water, and must include a list of the sewage facility alternatives considered.

§71.32. Department responsibility to review and act upon official plans.

Subsection (a) outlines the basis for completeness determinations relating to the Department's review of official plans and official plan revisions. Among the criteria are items required by *§*71.31. Subsection (a) has been revised in these final regulations to provide that when a special study is submitted in support of an existing official plan, existing plan revision or existing update revision, the Department may waive inapplicable requirements of §71.31.

§71.43. Approval of planning grants.

This section was revised to cross reference related provisions in Section 71.32(d)(7). The referenced section provides that when a plan is proposing sewage facilities which impact the sewerage facilities of other municipalities, the other municipalities must also adopt the plan. This is directly related to §71.43(d)(1) which establishes the conditions under which planning grants may be paid for plans in which more than one municipality participated.

§71.51. – Plan revisions. General

Subparagraph (v) provided a requirement that to qualify for a planning exemption, a replacement soil absorption area or spray field must be available for each lot of a proposed subdivision. These replacement areas must be confirmed by a signed report of the sewage enforcement officer serving the municipality in which the new land development is proposed. This subparagraph has been expanded by adding a new sentence providing that a local agency or municipality may require deed restrictions or other actions it deems necessary to protect the replacement soil absorption area or spray field from any damage which would make it unsuitable for future use.

§71.62. – Individual and community onlot sewage systems.

Existing subsection (c)(3)(ii) outlines one of the components required for a preliminary hydrogeologic evaluation necessary to determine the technical and institutional feasibility of using an onlot sewage system. The preliminary hydrogeologic evaluation must include, among other things, the estimated wastewater dispersion plume.

This section was clarified to set forth with specificity the sewage flows to be used in determining the estimated wastewater dispersion plume. The plume is to be determined by using an average daily flow of 262.5 gallons per equivalent dwelling unit, or some other flow supported by documentation.

ANALYSIS OF IMPACT – Chapter 71 Regulatory Changes

These regulatory amendments to Chapter 71 are based on, and are required as a result of amendments to the Pennsylvania Sewage Facilities Act.

Chapter 71 is referenced in Policy IV-1: Wetlands, found on page II-2-16 of CZM's FEIS. This policy preserves and protects Pennsylvania's coastal wetlands, and ensures that their functions and values such as groundwater recharge and water purification are maintained. This policy also protects wetlands from cumulative impacts in adjacent areas.

Chapter 71 is important to CZM's Wetland Policy because it requires a municipality during preparation of its sewage facility plans, to identify wetlands. Furthermore each municipality is required to evaluate the different sewage facility alternatives in order to protect wetlands.

These amendments to Chapter 71 will not impact CZM's Wetland Policy since the changes do not pertain to the consideration of wetlands during development of sewage facility plans. The amendments were made to Chapter 71 regulations to ensure that they would be consistent with Pennsylvania's Sewage Faciliities Act, to update technical standards for onlot sewage treatment systems, and clarify project review requirements.

SUMMARY AND CONCLUSION – Chapter 71 Regulatory Changes

The regulatory amendments to Chapter 71 are not substantial changes to Pennsylvania's CZM Program, but are routine. The regulatory amendments to Chapter 71, promulgated by amendments to Act 149, were made in order to make the regulations consistent with the Pennsylvania Sewage Facilities Act. They are currently in use throughout the Commonwealth. Since the original Act/regulations were

incorporated into Pennsylvania's CZM Program, amendments to the Act/regulations must also be incorporated into the CZM Program. These changes are in keeping with the Pennsylvania CZM Program's and the national CZM objectives and policies.

These changes are routine changes in an enforceable policy related to uses subject to management, and to CZM Program authorities. Based on the previous discussion and impact analysis of the amendments to Chapter 71, we have determined that these regulatory changes further detail, and are routine changes to Pennsylvania's CZM Program.

58 PA CODE CHAPTER 75 – Endangered Species (Amended November 1997)

Chapter 75 protects Pennsylvania's threatened and endangered species of fish, amphibians and reptiles.

Reacting to requests by individuals who scuba dive on Lake Erie, the Pennsylvania Fish and Boat Commission (PF&BC) adopted regulatory amendments that permit the taking of burbot (species of fish) from Lake Erie, using spears or gigs.

After the publication of a notice of proposed rulemaking, it was brought to the Commission's attention that according to §75.2(b) (relating to threatened species), burbot are classified as a threatened species Statewide, when in fact burbot are not threatened in Lake Erie and Presque Isle Bay, including peninsula waters. The Bureau of Fisheries has indicated that it was never intended that burbot be listed as threatened in Lake Erie and Presque Isle Bay. However, the regulation, as currently written, does not reflect that fact. Therefore, the Commission adopted the clarification to §75.2 that the burbot's threatened status does not extend to Lake Erie and Presque Isle Bay.

ANALYSIS OF IMPACT – Chapter 75 Regulatory Changes

Chapter 75 is contained in Policy IV-1: Wetlands, found on page II-2-16 of CZM's FEIS. This policy preserves and protects Pennsylvania's Threatened and Endangered Species of fish, amphibians, and reptiles.

As can be seen in the previous discussion, Title 58 Section 75.2(b) protected burbot as a threatened species throughout the Commonwealth. Having never intended to include the burbot from Lake Erie coastal waters, the PF&BC removed its threatened species protection in Lake Erie/Presque Isle Bay waters, where the burbot is a commonly found species.

SUMMARY AND CONCLUSION – Chapter 75 Regulatory Changes

The regulatory amendment to Chapter 75 is not a substantial change to the Pennsylvania CZM Program, but is routine. The amendment was made to correct a minor oversight by the PF&BC. It will not impact Pennsylvania's Lake Erie Coastal Zone, but will continue to protect burbot in the Delaware Estuary Coastal Zone.

Section 75.2(b) is currently in use throughout Pennsylvania. Since the original regulation is incorporated into Pennsylvania's CZM Program, this clarification will not affect it.

This regulatory change is a routine change in enforceable policies related to uses subject to management, and CZM Program authorities. Based on the previous discussion and impact analysis of the amendment to Chapters 75, we have determined that this regulatory change further details, and is not a substantial change to Pennsylvania's CZM Program.

25 PA CODE CHAPTER 121 – Air Resources – General Provisions, and 25 PA CODE CHAPTER 123 – Standards for Contaminants (Amended December 1997)

In August 1995, the Commonwealth announced its Regulatory Basics Initiative (RBI), as an overall review of Departmental regulations and policies. It gave the regulated community, local governments, environmental interests and the general public the opportunity to identify specific regulations which are either more stringent than Federal standards, serve as barriers to innovation, or are obsolete or unnecessary, or which impose costs beyond reasonable environmental benefits or serve as barriers to adopting new environmental technologies, recycling and pollution prevention.

In February 1996, Governor Ridge executed Executive Order 1996-1 (Regulatory Review and Promulgation) establishing standards for the review, development and promulgation of state regulations. The Department's RBI review is consistent with the directions and standards in Executive Order 1996-1. The following to-be-discussed regulatory amendments meet the requirements of Executive Order 1996-1.

These amended regulations are the first in a series of regulatory changes to the Department's air resource regulations resulting from the RBI. In general, these final changes make the Department's regulations consistent with the Federal requirements, delete obsolete and unnecessary provisions, and apply the Department's monitoring requirements in a consistent fashion for all affected sources.

Overall, the citizens of this Commonwealth will benefit from these changes because they will make the Department's air quality program consistent with Federal requirements and apply monitoring provisions for affected sources in a consistent manner. These provisions reduce unnecessary paperwork while continuing to provide the appropriate level of air quality protection.

Changes to these air quality regulations are:

§121.1. Definitions

The Department is modifying the definitions of "coke oven battery," "coke oven gas collector main," "door area," "major modification," "modification," "potential to emit," "responsible official" and "secondary emissions." In each case, the changes make the definitions consistent with Federal definitions of these terms promulgated under the Clean Air Act. The definition of "major modification" does not include the Federal exclusion for combustion of municipal waste and is, therefore, more stringent than the Federal definition.

§123.44. Limitations of visible fugitive air contaminants from operation of any coke oven battery.

The changes to Chapter 123 (relating to standards for contaminants) make this chapter consistent with the maximum achievable control technology (MACT) standards for coke ovens promulgated by EPA under the Clean Air Act.

ANALYSIS OF IMPACT – Chapters 121 and 123 Regulatory Changes

Chapters 121 and 123 are contained in Policy IX-B.2 Intergovernmental Coordination/Air Quality, found on page II-2-31 of CZM's FEIS. EPA has identified major air quality problems in the air quality regions of northwest Pennsylvania (Lake Erie Coastal Zone) and metropolitan Philadelphia (Delaware Estuary Coastal Zone). Both coastal zones experience periodic violations of the Nation Ambient Air Quality Standards. Policy IX-B.2 adopts by reference the requirements of the Federal Clean Air Act, and incorporates these requirements into the Commonwealth's CZM Program. A State Air Quality Implementation Plan (SIP), for stationary and mobile sources of air pollution has been adopted for both coastal areas, as a means to achieve the goals of the Federal Clean Air Act.

Chapters 121 and 123 are also contained in Policy VIII-I: Energy Facility Siting/Permitting found on page II-2-25 of CZM's FEIS. This policy ensures through regulations, by permit, that energy facilities such as oil and gas refineries, electric generating stations (coal, hydro, oil and gas), electric generating substations, gas drilling, and liquification of natural gas operations locating in the coastal areas are sited in such a manner that the coastal areas' ecosystems are not adversely affected.

The regulatory changes to Chapters 121 and 123 are a result of Governor Ridge's Regulatory Basics Initiative, which gave the regulated community, local governments, environmental interests, and the general public the opportunity to identify specific state regulations which are either more stringent than Federal standards, serve as barriers to innovation, or are obsolete or unnecessary or impose costs beyond reasonable environmental benefits, or serve as barriers to adopting new environmental technologies, recycling and pollution prevention. These regulatory changes make the Department's air quality regulations consistent with Federal requirements, protect air basins currently meeting Federal Air Quality Standards, and allow new industries an opportunity to start up in lesser quality air basins.

The regulatory changes to Chapters 121 and 123 will not affect the Department's ability to meet the requirements of the SIP or the National Ambient Air Quality Standards.

SUMMARY AND CONCLUSION – Chapters 121 and 123 Regulatory Changes

The regulatory amendments to Chapters 121 and 123 are not substantial changes to the Pennsylvania CZM Program, but are routine. These amendments are currently in use throughout Pennsylvania. Since the original regulations were incorporated into Pennsylvania's CZM Program, their amendments will also serve to strengthen the Program. These changes are in keeping with the Pennsylvania CZM Program's, and the national CZM objectives and policies.

These changes are routine changes in enforceable policies related to uses subject to management, and CZM Program authorities. Based on the previous discussion and impact analysis of the amendments to Chapters 121 and 123, we have determined that these regulatory changes further detail and are not substantial changes to Pennsylvania's CZM Program.

25 PA CODE CHAPTERS - 271-273, 277, 279, 281, 283, and 285 - Municipal Waste; Sewage Sludge; and

25 PA CODE CHAPTERS 287-289, 291, 293, 295, 297, AND 299 - Residual Waste (Amended November 1997)

Article VIII, which consists of Chapters 271 through 285, contains the Commonwealth's municipal waste regulations. These regulations specify the Department's requirements for municipal waste processing, disposal, transportation, collection and storage.

Article IX consists of Chapters 287 through 299, and contains the Commonwealth's residual waste management regulations. Article IX specifies the Department's requirements for residual waste processing, disposal, transportation, collection and storage.

These amended regulations will reduce recordkeeping requirements for the regulated community, and eliminate duplicative data submissions to the Department while continuing to provide adequate access to information to the public and the Department, and continuing to protect the environment.

None of these revisions exceeds Federal requirements. Related Federal municipal waste regulations can be found in the United States Environmental Protection Agency's (EPA) "Criteria for Municipal Landfills," 40 CFR 258, at 258.29. There are no companion Federal residual waste regulations. Because the Department is responsible for program administration, including compliance monitoring, detailed periodic

reporting is necessary. The EPA requires submission of records upon a request, to the State Director (that is, the Secretary of the Department). The Department has obtained EPA approval of its landfill permitting program (including recordkeeping and reporting under Part 258). These regulatory amendments do not jeopardize EPA approval.

The regulated community will benefit from these amendments since the amount of information reported and the frequency will lessen - approximately 2,500 facilities completing 185,508 fewer pages of reports per year. The Department will benefit since only information maintained and submitted will be what is needed to administer the waste programs. The counties, municipalities, waste facilities and the general public will also benefit since the shorter plan revision process will allow counties to take advantage of competitive pricing in the waste management industry.

All 67 Pennsylvania counties are required to prepare a county municipal waste management plan. These amendments will allow counties to add or delete a waste management facility to or from their county municipal waste management plan as a nonsubstantial plan revision. No additional forms or paperwork will be needed. Only those who will be revising their plan to add or delete a waste management facility will need to comply with the final regulations. Counties will realize a time saving in revising their plans which should translate into a cost savings because of fewer meetings and notices.

Amendments pertinent to CZM include:

Article VIII – Municipal Waste
§271. Alternate data submission.

Section 271.4 authorizes data required under the municipal waste regulations to be submitted electronically. The Department intends to encourage the electronic submission of data under this amendment.

§272.51. Submission of revisions.

Revisions to these chapters authorize counties to add or delete disposal or processing facilities, or both, to or from their municipal waste management plans without having to perform a substantial plan revision.

Section 272.251 has been amended in subsection(c) to clarify that the Department will subject a substantial as well as a nonsubstantial plan revision to a full review under §272.244 (relating to Departmental review of plans) to the extent that the plan is affected by the revision. The review will focus on the portions of the plan which are affected by the plan revision.

§272.52. Development of plan revisions.

This section was amended in order to strengthen the plan revision process by requiring that when a county submits to the Department a notice that it intends to revise its plan, the county must describe in the notice the way in which capacity will be assured for the remainder of the planning period.

Section 272.252 was also amended to eliminate from the list of items that require a substantial plan revision, the addition or deletion of a facility to or from a county municipal waste management plan. Now a facility may be added to or deleted from a plan without a substantial revision.

§285.217 - Municipal waste transporter records and reports.

This section was revised so that a person or municipality that collects or transports municipal waste, other than infectious and chemotherapeutic waste, is only required to make and maintain one record instead of two. The operator must keep this record in the cab of the vehicle on the date of collection or transportation. The record must be retained for 5 years.

The regulatory changes also revised the contents of the record slightly to provide consistency with the residual waste collection or transportation record required by §299.219 (relating to recordkeeping and reporting). This was achieved by adding the requirement that the record describe any handling problems or emergency activities. The regulatory changes also changed the title of this section from "Recordkeeping" to "Recordkeeping and reporting."

Article IX - Residual Waste

§287.51. Generator recordkeeping requirements.

Under the final regulation, a person or municipality that generates more than an average of 2,200 pounds of residual waste per generating location per month based on generation in the previous year shall submit a biennial report and source reduction strategy. In subsection (b), any person or municipality that generates more than 2,200 pounds of residual waste per generating location in any single month in the previous year (not an average) shall continue to submit a chemical analysis in accordance with §287.54 (relating to chemical analysis of waste). The authority of the Department to "waive or modify" the requirements of §287.51 for individual types of waste generated in quantities of less than 2,200 pounds per month per generating location is eliminated to the extent that it pertains to the biennial report and the source reduction strategy.

§273.311. Daily operational records (for municipal landfills).

§279.251. Daily operational records (for transfer facilities).

§277.311. Daily operational records (for construction/demolition waste landfills).

§299.219. Residual waste transporter records and reports.

§281.271. Daily operational records (for composting facilities).

§283.261. Daily operational records (for resource recovery and other processing facilities).

§288.281. Daily operational records (for residual waste landfills).

§289.301. Daily operational records (for residual waste disposal impoundments).

§291.221. Daily operational records (for land application of residual waste).

§293.251. Daily operational records (for transfer facilities for residual waste).

§295.271. Daily operational records (for composting facilities for residual waste).

§297.261. Daily operational records (for incinerators and other processing facilities).

These aforementioned regulatory sections originally required the operator to retain daily records longer than the life of the facility bond or the 5 years required by Section 7 of the Municipal Waste Planning, Recycling and Waste Reduction Act. All of these sections were revised to indicate that the longer retention period will be required for construction/demolition waste landfills if the Department determines it to be necessary to meet the standards of the environmental protection acts. This standard will be particularly useful when an environmental problem or other incursion is suspected or discovered near the end of the regular records retention period.

ANALYSIS OF IMPACT – Chapters 271-273, 277, 279, 281, 283, 285, 287-289, 291, 293, 295, 297 and 299 Regulatory Changes

Chapters 271-273, 275, 277, 279, 281, 283, 285, 287-289, 291, 293, 295, 297 and 299 are referenced in Policy VIII-1: Energy Facility Siting, found on page II-2-25 of CZM's FEIS. This policy ensures through regulations, by permit, that energy facilities such as oil and gas refineries, electric generating stations (coal hydro, oil and gas), electric generating substations, gas drilling, and liquification of natural gas operations locating in the coastal areas, are sited in such a manner that the coastal area ecosystems are not unreasonably adversely affected.

Although these regulatory chapters apply to CZM's policy regarding the siting and operation of coastal energy facilities, the regulatory amendment will not affect these activities. These amendments pertain to the Department's requirements for residual and municipal waste processing, disposal, transportation collection and storage. The amendments allow counties to add or delete a waste management facility to or from their county waste management plan as a nonsubstantial plan revision. The changes also reduce recordkeeping and eliminate duplicative data submissions.

SUMMARY AND CONCLUSION – Chapters 271-273, 277, 279, 281, 283, 285, 287-289, 291, 293, 295, 297 and 299 Regulatory Changes

The regulatory amendments to Chapters 271-273, 275, 277, 279, 281, 283, 285, 287-289, 291, 293, 295, 297 and 299 are not substantial changes to the Pennsylvania CZM Program, but are routine. The amendments reduce recordkeeping, eliminate duplicative data submissions and facilitate the revision of county municipal waste management plans.

These amended regulations are currently in use throughout the Commonwealth. This RPC will formally add these regulatory amendments to the CZM Program's enforceable policies. These changes are in keeping with the Pennsylvania CZM Program's and the national CZM objectives and policies.

These changes are routine changes in enforceable policies related to uses subject to management, and CZM Program authorities. Based on the previous discussion and impact analysis of the amendments to Chapters 271-273, 275, 277, 279, 281, 283, 285, 287-289, 291, 293, 295, 297 and 299, we have determined that these regulatory changes further detail and are routine changes to Pennsylvania's CZM Program.

INTRODUCTION – REGULATORY RENUMBERING

Pennsylvania's CZM Program was approved by NOAA in 1980. NOAA's approval was based, in part, on Pennsylvania's CZM Program's ability to carry out its responsibilities through a Governor's Executive Order and networking with other state agencies. These state agencies were in existence in 1980. However, over time these state agencies sometimes are either renamed, absorbed by other state agencies, have their functions transferred to other state agencies, or they are completely abolished.

ACT 58 REGULATORY RENUMBERING – Title 16 Chapter 38

In June of 1996 Pennsylvania's General Assembly approved Senate Bill 1353 (Act 58 of 1996). This legislation combined the state Department of Community Affairs (DCA) and the Department of Commerce (DC) to form a new Department Community and Economic Development (DCED). In addition, Act 58 transferred to DCED, the flood plain management functions performed by DCA under Title 16, Chapter 38. This organizational change and regulatory transfer was discussed in CZM's 1996 RPC, and determined by OCRM to be a routine program change.

In this RPC, the renumbering of Title 16 Chapter 38 to coincide with DCED's regulatory numbering system, will be discussed.

Title 16, Chapter 38 regulations concern flood plain management and are networked into the CZM Program. These regulations require that every local municipality in Pennsylvania which has been identified as having an area subject to flooding, to gain eligibility to participate in the National Flood Insurance Program; and to enact floodplain management regulations which, at least, comply with the minimum requirements of that program, and with the regulations adopted by DCED. All coastal municipalities have met these requirements.

Furthermore, municipalities which are in compliance with Title 16 Chapter 38 may issue "special permits" for obstructions, posing special hazards in floodplain areas. Activities posing special hazards are the construction of hospitals, nursing homes, jails and mobile home parks. A special permit can be issued by the municipality only after DCED's final approval. Through networking CZM is afforded an opportunity to comment on the issuane of this "special permit", prior to DCED's formal approval.

ANALYSIS OF IMPACT – Act 58 Regulatory Renumbering of Title 16 Chapter 38

The renumbering of Title 16 Chapter 38 is required by Act 18. In 1996 OCRM determined that the transfer of these regulations and functions from DCA to DCED was a routine program change. Renumbering Title 16 Chapter 38 is a "house keeping" function and will not impact the CZM Program.

Title 16 Chapter 38 is contained in CZM's Coastal Hazards Policy which begins on page II-2-3 of CZM's FEIS. Title 16 Chapter 38 will be renumbered as Title 12 Chapter 113.

The Regulation(s) Section of our Coastal Hazards Policy on Page II-2-8 of the FEIS will be revised to coincide with the regulatory renumbering. The original section read:

> **Regulation(s)**: Title 16, Chapter 38, which confer powers on the Department of Community and Economic Development, the Department of Environmental Protection, and municipalities to develop floodplain management programs. Title 25, Chapter 105, by which the Department of Environmental Protection regulates dams, waters obstructions, and encroachments in waters of the Commonwealth.

With the revisions (***in bold faced italics***), this section will now read:

> **Regulation(s)**: Title **12**, Chapter ***113,*** which confer powers on the Department of Community and Economic Development, the Department of Environmental Protection, and municipalities to develop floodplain management programs. Title 25, Chapter 105, by whch the Department of Environmental Protection regulates dams, waters obstructions, and encroachments in waters of the Commonwealth.

SUMMARY AND CONCLUSION – Act 58 Regulatory Renumbering of Title 16 Chapter 38

As discussed previously, this existing regulation has been previously transferred to the newly formed DCED. The regulations need to be renumbered to coincide with DCED's numbering system. The renumbering of Title 16 Chapter 38 is not a substantial change to Pennsylvania's CZM Program, but is routine. Under Governor's Executive Order 1980-20 the newly formed DCED is required to enforce and act consistently with the goals, policies and objectives of CZM. The renumbering of Title 16 Chapter 38 will not affect the CZM Program. Through the use of networking, these regulations will still remain incorporated in CZM's policies. However, they will be renumbered as Title 12 Chapter 113.

These changes are routine changes in enforceable policies related to uses subject to management, and to CZM Program authorities. Based on the previous discussion and impact analysis of these changes, we have determined that these changes further detail and are routine changes to Pennsylvania's CZM Program.

1997 CHANGES TO GEOGRAPHIC AREAS OF PARTICULAR CONCERN (GAPC)

INTRODUCTION - GAPC CHANGES

The Federal CZM Act while noting the importance of the entire coastal zone, finds that certain areas are of greater significance. As a requirement for program approval, the Act required the Pennsylvania CZM Program to inventory and denote these geographic areas of particular concern (GAPCs). In addition, the Act further required the Pennsylvania CZM Program to make provision to denote future GAPC areas in order to preserve, protect, and restore them. The approved Pennsylvania CZM Program has met both of these requirements. (See FEIS page 11-3-1 - Purpose of Designated and Nominated GAPC.)

GAPCs can either be designated, or nominated. Designated GAPCs are designated by virtue of state ownership, state regulation, or contractual agreement with the agency, or entity responsible for management of the GAPC. Nominated GAPCs are those areas which the public, state, and federal agencies, interest groups, and other affected parties identified as deserving special management attention by CZM.

ADDITION OF DOBOSIEWICZ FARM GAPC – Lake Erie

The Dobosiewicz Farm will be designated as an area of Significant Natural Value.

The Dobosiewicz Farm is made up of 4 parcels of land consisting of approximately 258.44 acres. All 4 parcels are located in the Lake Erie Coastal Zone in North East Township (See Location Map 1). Parcel 1 consists of approximately 15.79 acres, parcel 2 approximately 216.51 acres, parcel 3 approximately 16.14 acres, and parcel 4 approximately 10 acres (See Location Map 2). Approximately 96% (250 acres) of the Dobosiewicz Farm currently is a nominated Significant Natural Value GAPC. The remaining 4% (8 acres of Parcel 1) is not yet a GAPC (See Location Map 3). CZM intends to designate the entire Dobosiewicz Farm as a Significant Natural Value GAPC. The property lies entirely within the Lake Erie Coastal Zone (LECZ), and is currently operated as a vineyard.

ANALYSIS OF IMPACT – Addition of Dobosiewicz Farm GAPC

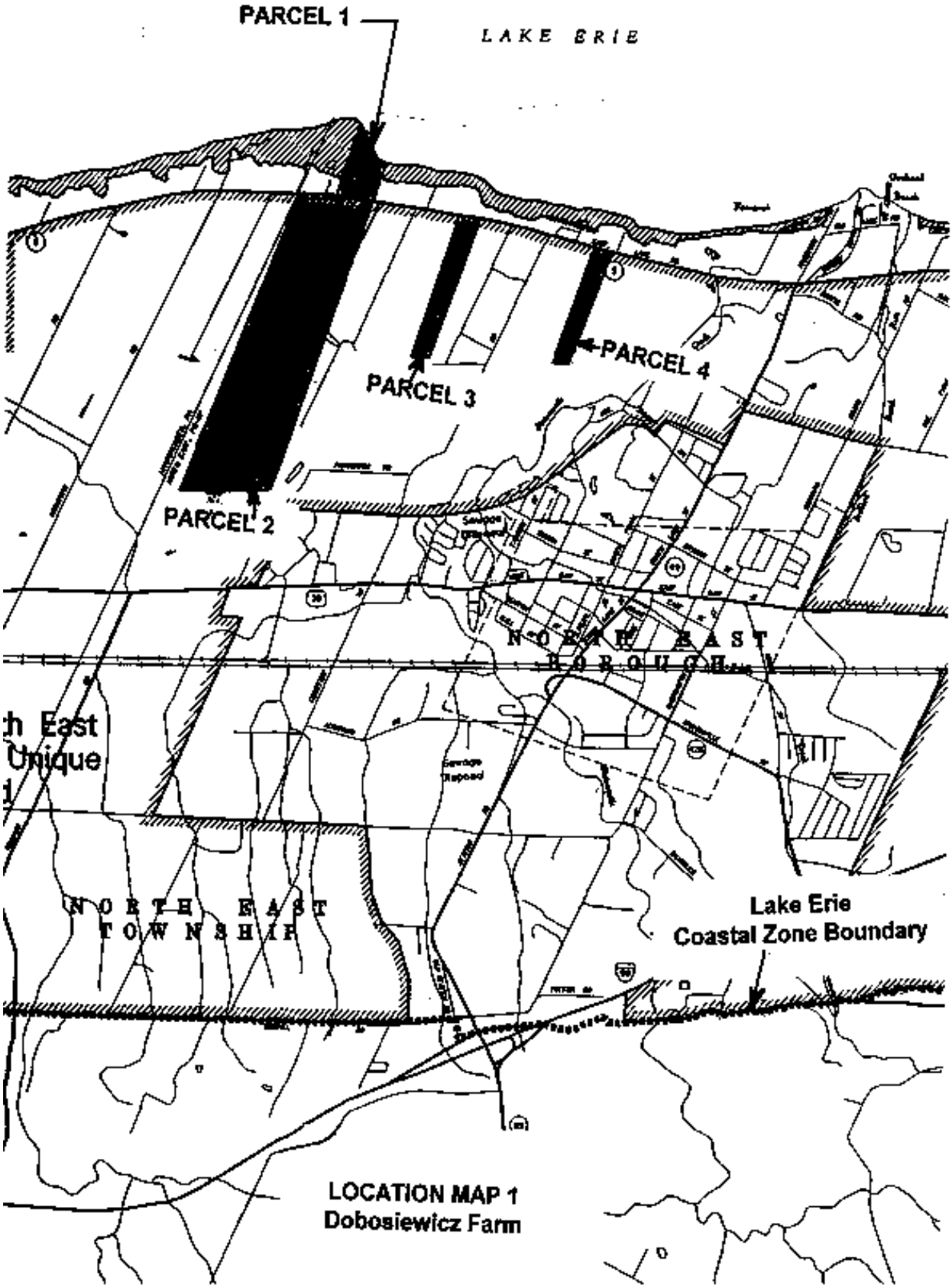
Areas of Significant Natural Value are determined according to the concentration of natural characteristics that are either valuable as amenities, or unique to the coastal environment. These land-based characteristics include woodlands, uplands, wildlife habitats, and prime agricultural and erodible soils.

Approximately 146 acres of this farm are considered prime farmland, according to the Erie County Soil Survey and the U.S. Department of Agriculture's Important Farmland Map. Another 28.6 acres is listed as Additional Farmland of Statewide Importance, giving the farm roughly 175 acres of Prime or Important Farmland.

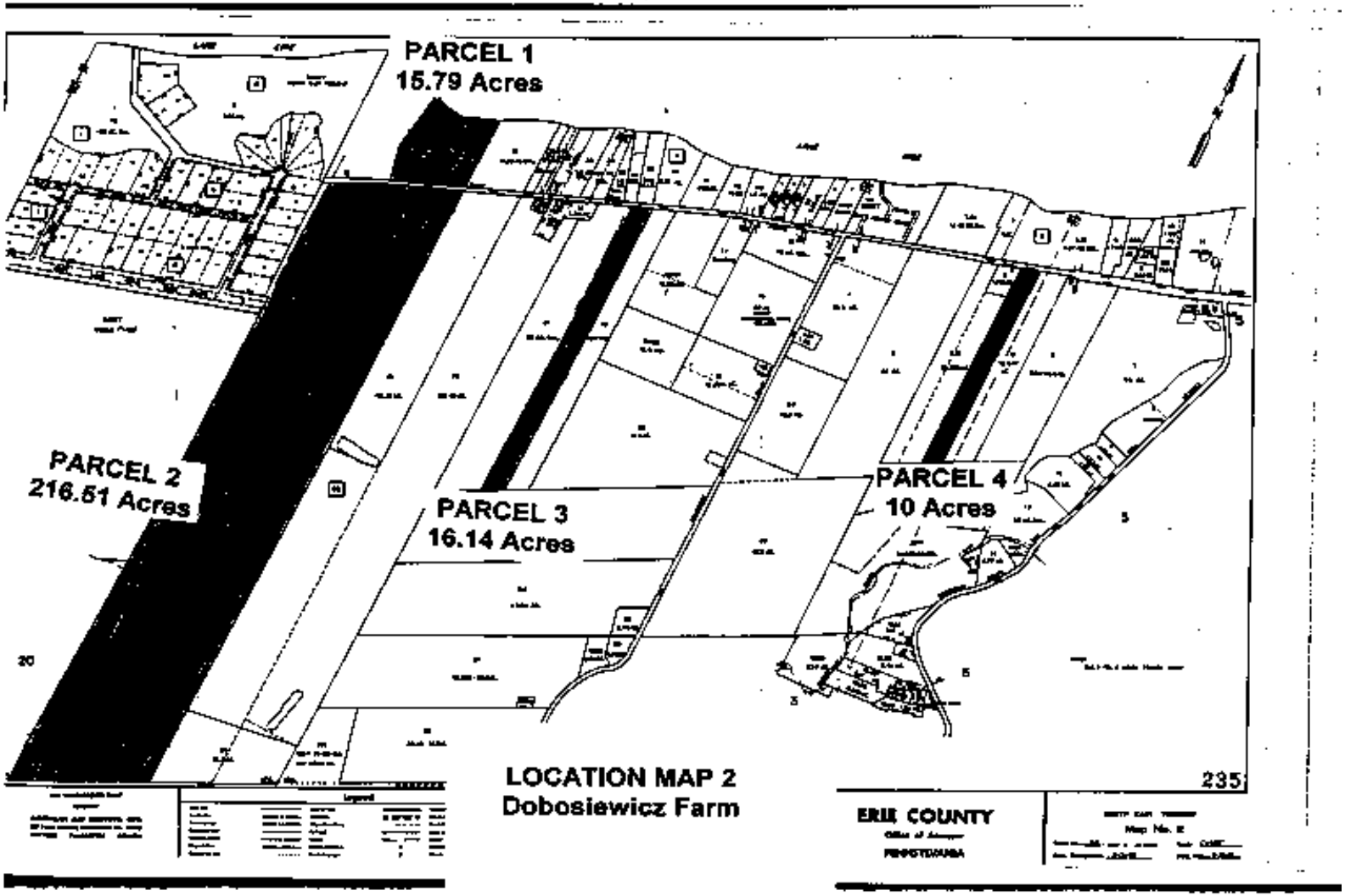
The farm has the following soil classifications:

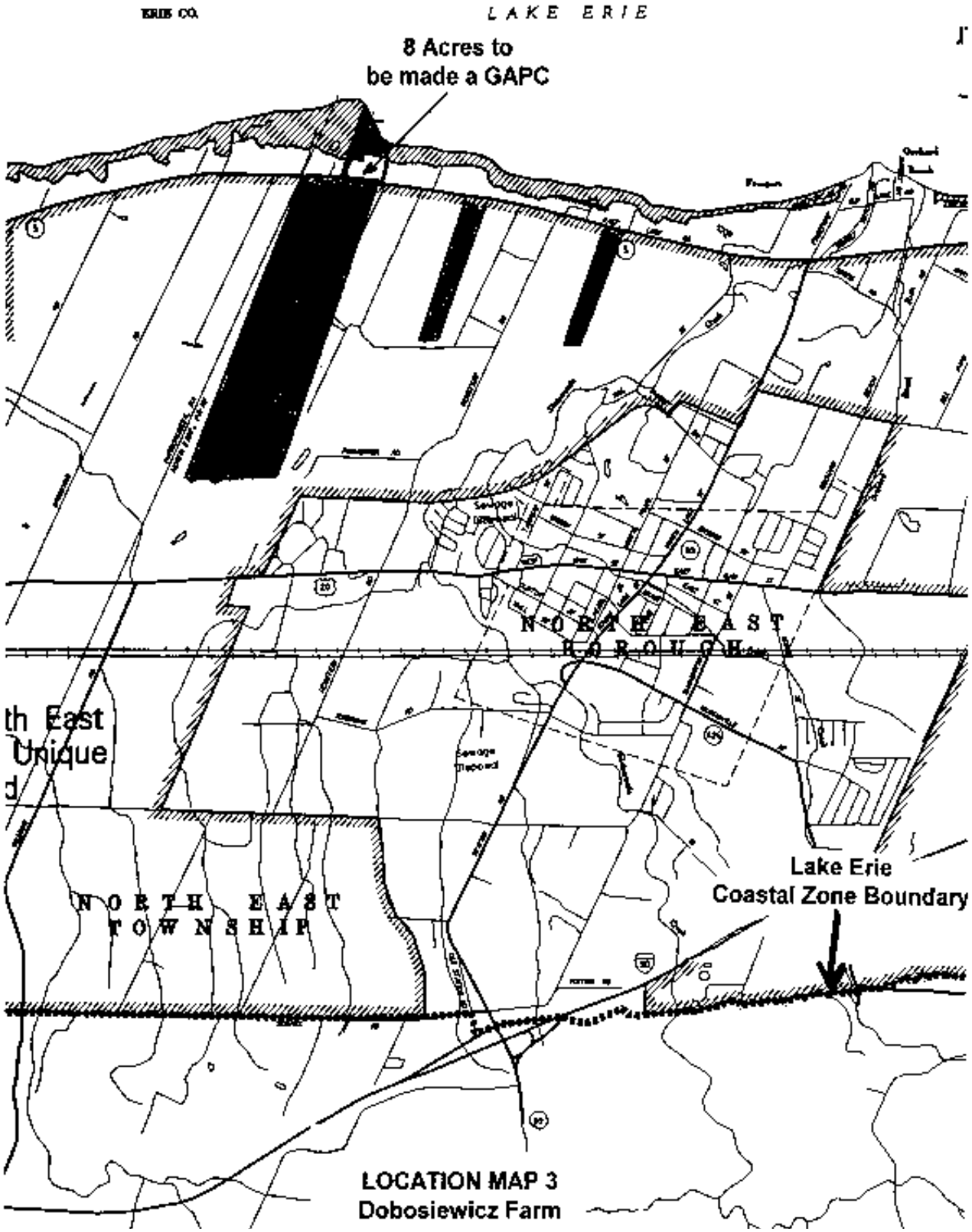
Class I – 0%; Class II – 25.07%, Class III – 70.56%; Class IV – 1.74%, Classes V, VI, VII and VIII – 2.63%. 97.37% of the soils on this farm are in soil classes I through IV.

Approximately 68.09% of this farm is harvested cropland, pasture or grazing land, and over 90% of this farm is available for agricultural production in capability classes I through IV.



LOCATION MAP 1
Dobosiewicz Farm


PARCEL 1
15.79 Acres
PARCEL 2
216.51 Acres
PARCEL 3
16.14 Acres
PARCEL 4
10 Acres
LOCATION MAP 2
Dobosiewicz Farm
ERIE COUNTY
235


ERIE CO.
LAKE ERIE
8 Acres to
be made a GAPC
NORTH EAST
BOROUGH
th East
Unique
d
NORTH EAST
TOWNSHIP
Lake Erie
Coastal Zone Boundary
LOCATION MAP 3
Dobosiewicz Farm

Due to the exceptional agricultural value of the property, the Pennsylvania Department of Agriculture (PDA) has entered into an agreement with the owners of the property for the purchase of an Agricultural Conservation Easement. The purchase of this easement will entrust to PDA, the responsibility for maintaining the property as an agricultural conservation area, and thereby insure the protection of the prime agricultural soils situated on the property.

One of the major goals of the CZM Program is the protection and enhancement of these unique areas, and the encouragement of only those uses which will not interfere with the area's natural functions. The CZM Program's FEIS (page II-3-5) lists agricultural activities which occur within prime and unique soils areas, as a High Priority Activity for a Significant Natural Value GAPC.

Through the purchase of an Agricultural Conservation Easement, the Pennsylvania Department of Agriculture will be responsible for the management and protection of this GAPC.

The designation of the Dobosiewicz Farm GAPC is in conformance with CZM's Coastal Hazards Area and Fisheries Management Policies found in CZM's FEIS on pages II-2-3 and II-2-12, respectively.

As a result of designating the Dobosiewicz Farm as a Significant Natural Value GAPC, the FEIS' Inventory of GAPC (see page II-3-11) will be revised. With the revisions **(In bold faced italics)**, the Inventory will read as follows:

Identification No.	Natural Value Areas	Approx. Size (Acres)
**NV-1	Lake Erie Bluff	---
NV-5	Harborcreek and North East Township Prime and Unique Agricultural Land	21,000
*/**NV-6	McCord Vineyard	185.54
/**NV-7	***Dobosiewicz Farm***	***258.44***

*Denotes state ownership
**Denotes state regulated

SUMMARY AND CONCLUSION – Addition of Dobosiewicz Farm GAPC

The addition/designation of the Dobosiewicz Farm GAPC is a not a substantial change to CZM's existing Inventory of GAPC, but is routine. The entire Dobosiewicz Farm (258.44 acres) is presently located within the LECZ. Approximately 96% (250 acres) of this site presently is a nominated Significant Natural Value GAPC. CZM will add the remaining 4% (8 acres), and designate the entire Dobosiewicz Farm as a Natural Value GAPC.

The Dobosiewicz Farm contains prime agricultural and erodible soils. Through state ownership (purchase of conservation easement), state regulation, and contractual agreement with PDA, CZM will be able to better preserve and protect this prime agricultural site.

This GAPC change is a routine change to special management areas of Pennsylvania's CZM Program. Based on the previous discussion and impact analysis concerning the addition of Dobosiewicz Farm GAPC, we have determined that this GAPC change further details and is a routine change to Pennsylvania's CZM Program.

1997 REGULATORY CHANGES REQUIRED UNDER THE FEDERAL CLEAN AIR AND CLEAN WATER ACTS

INTRODUCTION – INCORPORATION OF WATER POLLUTION AND AIR POLLUTION REQUIREMENTS

Section 307(f) of the Federal CZM Act and 15 CFR Section 923.44 of the approval regulations calls for the "incorporation" of the requirements of the Federal Water Pollution Control Act, as amended, and the Federal Clean Air Act, as amended, into coastal zone management programs.

As a result, states are not required to submit these requirements to OCRM as program changes. However, states must notify OCRM, federal, state, and local agencies, and other interested parties, of the incorporation of these requirements into their state coastal management programs. As such, Pennsylvania's CZM Program is taking this opportunity to provide the required notification. (See FEIS page II-5-14 - Incorporation of Water Pollution and Air Pollution Requirements.)

25 PA CODE CHAPTER 93 – Great Lakes Water Quality Initiative (Amended December 1997)

Chapter 93 sets forth water quality standards for the waters of this Commonwealth. These standards are based upon water uses which are to be protected, and will be considered by the Department in its regulation of discharges.

Water quality standards are an important element of the Commonwealth's Water Quality Management Program in that they set general and specific goals for the quality of Pennsylvania's streams. The water quality standards consist of the designated uses of the surface waters of this Commonwealth, along with the specific numerical and narrative criteria necessary to achieve, and maintain those uses. Thus, water quality standards are instream water quality goals that set standards of cleanliness for rivers, lakes and other surface waters. These goals are implemented by imposing specific regulatory requirements, such as treatment requirements and effluent limitations, on individual sources of pollution.

The Commonwealth's Water Quality Standards – Chapter 93, implement section 303 of the Federal Clean Water Act. These changes to Chapter 93 incorporate requirements of the Great Lakes Water Quality Initiative (GLI) into the Commonwealth's Water Quality Standards.

In addition to Chapter 93 changes, the Department has also incorporated numerous GLI provisions into the statement of policy in Chapter 16 (relating to water quality toxics management strategy).

The GLI requirements, promulgated at 40 CFR Part 132 on March 23, 1995 (60 F.R. 15366) provide for consistent protection for fish and shellfish in the Great Lakes System and the people and wildlife who consume them. The GLI focuses on long-lasting pollutants called bioaccumulative chemicals of concern (BCCs) that accumulate in the food web of large lakes. The major elements of the GLI are: water quality criteria to protect human health, aquatic life and wildlife, methodologies for criteria development, procedures for developing effluent limits for point sources, and antidegradation policies and procedures. States are required to adopt water quality standards, antidegradation policies and implementation procedures as protective as the GLI.

25 PA CODE CHAPTER 121 – General Provisions. and

25 PA CODE CHAPTER 123 – Standards for Contaminants. (Amended November 1997)

In the 1990 amendments to the Federal Clean Air Act, Congress recognized that ground level ozone (smog) is a regional problem not confined to state boundaries. Section 184 of the Clean Air Act (42 U.S.C.A. Section 7511c), established the Northeast Ozone Transport Commission (OTC) to assist in developing recommendations for the control of interstate ozone air pollution.

Ozone is not directly emitted by pollution sources, but is created as a result of the chemical reaction of NO_x (nitrogen oxides) and volatile organic compounds (VOCs), in the presence of light and heat, to form ozone in the air masses traveling over long distances.

Because NO_x from large fossil-fired combustion units is a major contributor to regional ozone pollution, the OTC member states, including this Commonwealth proposed development of a regional approach to address NO_x emissions. The regional approach would utilize an emission budget program. To provide for the optimal degree of flexibility and to minimize compliance costs OTC members developed a regionwide market-based "cap and trade" program. A "cap and trade" program sets a regulatory limit on mass emissions from a discreet group of sources, allocates allowances to the sources authorizing emissions up to the regulatory limit, and permits trading of allowances to effect cost efficient compliance with the cap.

In 1994, the OTC states agreed in a MOU to develop regulations for the control of NO_x emissions. The control strategies eventually approved by OTC members, are commitments by this Department to pursue regulatory actions under state law to implement the control strategies.

The regulatory amendments to Chapter 121 and 123 establish a program to limit the emission of NO_x from fossil-fired combustion units with rated heat input capacity of 250 MMBtu/hour or more and electric generating facilities of 15 megawatts or greater.

NOTICE OF INCORPORATION

Chapters 93, 121, 127, and 129 are contained in the following policies:

- Policy III-1: Fisheries Management/Support Fish Life, page II-2-13 (Chapter 93)
- Policy IV-1: Wetlands/Wetlands, page II-2-16 (Chapter 93)
- Policy VIII-1: Energy Facility Siting/Permitting, page II-2-25. (Chapters 93, 121, and 123)
- Policy IX-B.1: Intergovernmental Coordination/Water Quality, page II-2-29 (Chapter 93)
- Policy IX-B.2: Intergovernmental Coordination/Air Quality, page II-2-31 (Chapters 121 and 123)

As a result of Section 307(f) of the CZM Act, the Pennsylvania CZM Program is providing notice that these aforementioned regulatory changes, required by the Federal Clean Air and Clean Water Acts are incorporated into the Pennsylvania CZM Program.