



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

AUG 13 1998

Dear Mr. Tabor:

This letter responds to your July 15, 1998 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 of the PA Code, Chapters 71 and 127; (2) reorganization of networked state agencies (3) the addition of two geographic areas of particular concern (GAPC) and the expansion of one GAPC; (4) addition of a Special Area Management Planning Process; (5) 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 of the PA Code, Chapters 71 and 127. In addition, Title 25 Chapter 82 will be renumbered as Title 17, Chapter 45 and Title 25 Chapter 107 will be renumbered as Title 17 Chapter 47. 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,

for James P. Lawless
 Jeffrey R. Benoit
 Director



RPC VIII

RPC VIII

1996 PROPOSED ROUTINE PROGRAM CHANGES

TO

PENNSYLVANIA'S COASTAL ZONE MANAGEMENT PROGRAM

JULY 1998



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RPC VIII

1996 PROPOSED 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 program changes (RPCs) that further detail this Program.

PROPOSED CHANGES

Several CZM Program changes have occurred in 1996. The Commonwealth of Pennsylvania is submitting these proposed changes to NOAA's Office of Coastal and Resource Management as RPC's, and not amendments.

The following are proposed Routine Program Changes (RPC) 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 Geographical Areas of Particular Concern; and

Chapter 4 - Program Authorities and Organization, and concern reorganizations of DER and other state agencies.

The following pages contain a discussion of every program change that had occurred in 1996, an analysis of the impact that the change will have on Pennsylvania's CZM Program, and justification as to why the change constitutes an RPC and not a program amendment, as defined by the federal CZM regulations.

1996 REGULATORY PROGRAM CHANGES

INTRODUCTION - GENERAL REGULATORY CHANGES

CZM's enforceable policies are based on Department of Environmental Protection's (DEP) 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 CHAPTER 71 - Sewage Facilities (Amended November 1996)

Chapter 71 concerns the administration of Pennsylvania's sewage facilities planning program. The 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.

The amendments to Chapter 71 clarify DEP's responsibility and provide for a shortened time frame for DEP's review of new land development revisions. These regulatory amendments resulted from amendments to the Pennsylvania Sewage Facilities Act (Act) (35 P.S. §§ 750.1-750.20) which were enacted by the Act of July 1, 1989 (P.L. 124, No. 26) (Act 26), and the Act of December 14, 1994 (P.L. 1250, No. 149) (Act 149).

During its 1994 session, the General Assembly enacted Act 149, which substantially amended the Act. One section of Act 149 became effective immediately upon enactment. With one exception, the remainder of Act 149 became effective on December 15, 1995. The General Assembly also amended the Act during its 1989 session (Act 26). Proposed regulations intended to implement the provisions of Act 26 were adopted by the Board on December 19, 1990. However, the regulations proposed to implement Act 26 were withdrawn by the Board on May 19, 1993. These 1996 amendments implement the provisions of Section 16 of Act 149 relating to the 10-acre exemption provisions of Section 7 of the Act, which became effective immediately upon enactment of Act 149, and also implement the provisions of Act 26 (including provisions of Act 26 which were amended under Act 149).

The following amendments to Chapter 71 are pertinent to CZM.

SECTION 71.1 - Definitions

The term “Residential subdivision plan” has been revised to make the term consistent with the term as defined in the Pennsylvania Sewage Facilities Act (Act).

SECTION 71.32 - Department Responsibility

Subsection (f) was revised to make Section 71.32 consistent with the Act. Previous provisions specified that a revision for new land development will not be approved in those areas of a municipality in which an official plan, update revision or implementation of an official plan is required; and that a subdivision plan may not be approved nor a building permit issued in those areas of a municipality where the official plan is inadequate or not being substantially implemented are being deleted. These provisions are inconsistent with the Act.

With the amendments, a supplement or a revision for new land development will not be denied nor will an exception to the requirement to revise be found inadequate solely because the municipality in which the new land development is being proposed has failed to: (i) submit an update revision or special study; or (ii) to implement its plan as required. This would not preclude DEP from denying a supplement or revision, or find an exception to the requirement to revise inadequate, where conditions in addition to the failure to submit or implement may warrant.

SECTION 71.54 - Department Administration of New Land Development Planning Requirements for Revisions

This amendment requires DEP to approve or disapprove revision for remedial subdivision plans within 60 days from the date DEP determines a submission is complete. Prior to the amendment DEP had 120 days to approve or disapprove a revision.

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 Final Environmental Impact Statement (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 amendments pertinent to CZM, (1) revise the term “residential subdivision plan”, (2) allow for DEP’s approval of a land development supplement or revision in a municipality in

which their official sewage plan has not been revised or satisfactorily implemented, and (3) requires DEP's approval/disapproval of remedial subdivision plans within 60 days.

These amendments do not impact CZM's Policy IV-1 - Wetlands. The amendments were made to Chapter 71 regulations to ensure that they would be consistent with Pennsylvania's Sewage Facilities Act.

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 Acts 26 and 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.

1996 ORGANIZATIONAL CHANGES

INTRODUCTION - ORGANIZATIONAL CHANGES

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 a networking arrangement 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 18 ORGANIZATIONAL CHANGES - Division of DER

The following is the first of three organizational changes, pertinent to the CZM Program, that has occurred in 1996.

In 1996, the Commonwealth enacted Act 18 of 1995. Act 18, which is known as the Conservation and Natural Resources Act, divided the Department of Environmental Resources (DER) into two cabinet level agencies: the Department of Environmental Protection (DEP) and the Department of Conservation and Natural Resources (DCNR). CZM is now located in DEP.

The purpose of DER's division was to ensure that adequate attention was given to the Commonwealth's state parks, its forests, waters and mineral wealth, and to promote better management of these natural resources. Under the former DER, the forests and parks were not given adequate attention. The "current" environmental crisis, spill or pollution episode faced by DER and/or regulatory development initiatives usually garnered the majority of DER's funding and attention.

Under the division, DEP will continue to develop and enforce laws and regulations to prevent air, water and land pollution. DCNR will be responsible for managing Pennsylvania's natural resources, including its 116 state parks and 20 state forests.

ANALYSIS OF IMPACT - Act 18 Division of DER

Basically, Act 18 divided DER into DEP, which is charged with developing and enforcing environmental laws, and DCNR which is responsible for managing the state's parks and forests. CZM is located in DEP, the enforcement half of these two environmental agencies.

As a result of the division of DER, two chapters of regulations which are incorporated into CZM, have been renumbered and transferred to DCNR to administer (the renumbering of these chapters will be discussed next in this RPC). The chapters transferred are Title 25 Chapter 107 dealing

with drilling water wells, and Title 25 Chapter 82 dealing with conservation of Pennsylvania's native wild plants.

15 CFR Part 923.40 describes the federal requirements for CZM Program approvability with respect to authorities and organization. Part 923.40(b) states that the state agency or agencies which exercise the CZM program's authority is a matter of state determination. They may be the designated state CZM agency or other state agencies. The major approval criterion is a determination that such an entity or entities are required to exercise their authorities in conformance with the policies of the CZM program. Accordingly, the essential requirement is that the state demonstrate that there is a means of ensuring such compliance. In Pennsylvania, this compliance was assured by Governor's Executive Order 1980-20, which states, (underlining added):

“4a. To the maximum extent permitted by law, all administrative departments, independent administrative boards and commissions, and other State agencies shall, upon Federal approval of the Pennsylvania Coastal Zone Management Program, enforce and act consistently with the goals, policies, and objectives of that Coastal Zone Management Program and provide for adequate consideration of the national interest involved in planning for and siting of facilities and the use of resources in the coastal zones when such planning, siting, and uses are of more than local interest.”

As can be seen by the above paragraph, Executive Order 1980-20 which is still in effect, requires all departments to enforce their regulations and act consistently with Pennsylvania's CZM Program. Therefore, the Division of DER into DEP and DCNR, and the subsequent transfer of Title 25 Chapters 107 and 82 to DCNR will not impact CZM's ability to carry out the federal requirements of its program.

SUMMARY AND CONCLUSION - Act 18 Division of DER

This organizational change is not a substantial change to the authorities or organizational structure that the Commonwealth relies on to administer its CZM Program. As discussed previously, the division of DER merely separates the regulatory responsibilities from the management responsibilities. CZM is still located within the regulatory half of the division.

Under Governor's Executive Order 1980-20 the newly formed DCNR is required to enforce and act consistently with the goals, policies and objectives of CZM. The transfer of Chapters 82 and 107 to DCNR also will not affect the CZM Program. Through the use of networking, these regulations will still remain incorporated in CZM's policies.

As a result of DER's division, all references to DER in Chapter 4 and elsewhere throughout CZM's FEIS will be changed. All references to the former Department of Environmental Resources will now read either *Department of Environmental Protection* or *Department of Conservation and Natural Resources*, depending on its applicability.

These changes are routine changes to the CZM Program's organizational structure which Pennsylvania relies on to administer its CZM Program. Based on the previous discussion and impact analysis of these organizational changes, we have determined that these changes further detail, and are routine changes to Pennsylvania's CZM Program.

ACT 18 REGULATORY TRANSFER AND RENUMBERING - Title 25 Chapters 107 and 82

In addition to creating the Department of Conservation and Natural Resources, Act 18 also transferred to DCNR certain functions which had previously been assigned to the Department of Environmental Resources (presently the Department of Environmental Protection). Furthermore, Act 18 required DCNR to submit a notice renumbering certain regulations and policies in acknowledgment of that reassignment of functions.

In keeping with Act 18, two chapters of regulations which are incorporated into CZM have been renumbered and transferred to DCNR to administer. The chapters transferred are Title 25 Chapter 107 dealing with drilling water wells, and Title 25 Chapter 82 dealing with conservation of Pennsylvania's native wild plants.

ANALYSIS OF IMPACT - Act 18 Regulatory Transfer and Renumbering

The transfer of Chapters 82 and 107 to DCNR will not affect the CZM Program. Both Chapters 82 and 107 are not in the true sense regulatory. Chapter 82 is a formal listing of state native threatened and endangered plant species designated for special protection, while Chapter 107 requires water well drillers and their equipment to be licensed. These regulations are currently networked into CZM, albeit under DER's regulatory numbering system. This RPC will renumber these regulations in our FEIS according to DCNR's numbering system, in order to properly reference them.

Chapter 107 is eight paragraphs in length. Its sole purpose is to require that water well drillers are licensed, and that their drilling rigs have a permit. Water quality is not regulated by this chapter.

Chapter 82 was incorporated into the CZM Program's policies in 1993. This chapter lists Pennsylvania's native wild plants that have been formally designated as threatened or endangered. CZM added this chapter to its policies to protect these plants during our federal consistency review of direct federal development projects.

Title 25 Chapters 82 and 107 are contained in our Wetlands Policy, which begins on page II-2-16 of our FEIS. Title 25 Chapter 82 will be renumbered as Title 17, Chapter 45. Title 25 Chapter 107 will be renumbered as Title 17 Chapter 47.

The Regulation(s) Section of our Wetlands Policy will be revised in order to coincide with DCNR's regulatory renumbering of these regulations. The original section read:

Regulation(s): 25 Pa. Code, Chapters 71, 82, 91, 92, 93, 94, 95, 97, 99, 100, 101, 102, 105, 106, 107, 109, 289, and 299.

58 Pa. Code, Chapters 75 and 133

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

Regulation(s): 25 Pa. Code, Chapters 71, 91, 92, 93, 94, 95, 97, 99, 100, 101, 102, 105, 106, 109, 289, and 299.

17 Pa. Code, Chapters 45 and 47

58 Pa. Code, Chapters 75 and 133

SUMMARY AND CONCLUSION - Act 18 Regulatory Transfer and Renumbering

The transfer and renumbering of these two Chapters are not substantial changes to Pennsylvania's CZM Program, but are routine. As discussed previously, these existing regulations have been transferred to the newly formed DCNR, and renumbered.

Under Governor's Executive Order 1980-20 the newly formed DCNR is required to enforce and act consistently with the goals, policies and objectives of CZM. The transfer of Chapters 82 and 107 to DCNR also will not affect the CZM Program. Through the use of networking, these regulations will still remain incorporated in CZM's policies. They will be renumbered as Title 17 Chapter 45 and 47, respectively.

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 Pennsylvania's CZM Program, and are routine changes.

ORGANIZATIONAL CHANGE - Restructuring of DEP's Water Management Deputate

This is the second organizational change that occurred in 1996.

In addition to the division of DER, and formulation of DEP and DCNR, DEP's Office of Water Management was restructured to reflect a watershed approach to managing the Commonwealth's water resources. The CZM Program is still located within this Deputate. However, CZM will no longer be a Division, and will be referred to as the Coastal Zone Management Section, located within the Division of Watershed Support, Bureau of Watershed Support.

The purpose of the restructuring was allow DEP's water management organization to examine the cumulative impact of all human activity over a much larger geographical area, rather than to simply regulate point sources of pollution such as discharges from industrial and sewage treatment plants.

Under the restructuring the number of bureaus in this deputate will be reduced from five to four. The Bureau of Watershed Conservation will be responsible for watershed protection and planning, stream monitoring, nonpoint source pollution control, water rights administration, interagency water resources coordination and storage tanks.

ANALYSIS OF IMPACT - Restructuring of DEP's Water Management Deputate

The restructuring of the Water Management Deputate will have no impact upon the CZM Program or affect the requirements for federal approvability. As previously mentioned, the restructuring of DEP's Water Management Deputate to protect water quality from a watershed approach is reflective of the current OCRM and nationwide approach. CZM will adopt this approach as well.

As a result of restructuring the Water Management Deputate, all references to the former Division of Coastal Programs and to the former Bureau of Land and Water Conservation in Chapter 4, and elsewhere throughout CZM's FEIS will be changed. Chapter 4, which discusses the CZM Program's authorities and organization, begins on page II-4-1 of our FEIS. All references to the former Division of Coastal Programs will now read *Coastal Zone Management Section*; all references to the former Bureau of Land and Water Conservation will now read *Bureau of Watershed Conservation*.

SUMMARY AND CONCLUSION - Restructuring of DEP's Water Management Deputate

The restructuring of DEP's Water Management Deputate is not a substantial change to Pennsylvania's CZM Program, but routine. The restructuring will provide DEP with a more effective mechanism to manage Pennsylvania's water resources from a watershed approach. This change is in keeping with NOAA's and the Nation's policies and objectives.

This change is a routine change to the CZM Program's organizational structure which Pennsylvania relies on to administer its CZM Program. Based on the previous discussion and impact analysis of this organizational change, we have determined that this change further details, and is a routine change to Pennsylvania's CZM Program.

ACT 58 ORGANIZATIONAL CHANGES - Merger of DCA and DC

This is the third organizational change that occurred in 1996.

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 the new Department of Community and Economic Development (DCED).

The purpose of combining these two Departments was the administration's realization that local government and economic development must go hand in hand. As such, the missions of these

two departments were combined to place more emphasis on economic development at the local level.

Of importance to CZM is DCA's Title 16, Chapter 38 regulations concerning Flood Plain Management which 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 DCA. All coastal municipalities have met these requirements.

Furthermore, municipalities which are in compliance with DCA's regulations 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 DCA's final approval. Through networking CZM is afforded an opportunity to comment on the issuance of this "special permit," prior to DCA's formal approval.

With the merger of DCA and DC, Chapter 38 has been transferred to the new DCED. Chapter 38 has not been renumbered.

ANALYSIS OF IMPACT - Act 58 DCA and DC Merger

Act 58 combined DCA and DC to form one department - DCED. Chapter 38 still exists and is administered by DCED.

15 CFR Part 923.40 describes the requirements for CZM Program approvability with respect to authorities and organization. Part 923.40(b) states that the state agency or agencies which exercise the CZM program's authority is a matter of state determination. They may be the designated state CZM agency or other state agencies. The major approval criterion is a determination that such an entity or entities are required to exercise their authorities in conformance with the policies of the CZM program. Accordingly, the essential requirement is that the state demonstrate that there is a means of ensuring such compliance. In Pennsylvania, this assurance was by Governor's Executive Order 1980-20, which states, (underlining added):

"4a. To the maximum extend permitted by law, all administrative departments, independent administrative boards and commissions, and other State agencies shall, upon Federal approval of the Pennsylvania Coastal Zone Management Program, enforce and act consistently with the goals, policies, and objectives of that Coastal Zone Management Program and provide for adequate consideration of the national interest involved in planning for and siting of facilities and the use of resources in the coastal zones when such planning, siting, and uses are of more than local interest."

As can be seen by the above paragraph Executive Order 1980-20, which is still in effect requires all departments to enforce their regulations and act consistently with Pennsylvania's CZM

Program. Therefore, the Division of DER into DEP and DCNR, and the subsequent transfer of Title 25 Chapters 107 and 82 to DCNR do not impact CZM's ability to carry out the federal requirements of this program.

SUMMARY AND CONCLUSION - Act 58 DCA and DC Merger

This organizational change is not a substantial change to the organizational structure that the Commonwealth relies on to administer its CZM Program but is routine. As a result of creating DCED, all references to the Department of Community Affairs or Department of Commerce in Chapter 4 and elsewhere throughout CZM's FEIS will be changed. Chapter 4, which discusses the CZM Program's authorities and organization, begins on page II-4-1 of our FEIS. All references to the former Department of Community Affairs or Department of Commerce will be changed in Chapter 4 and throughout our FEIS to read *Department of Community and Economic Development*.

These changes are routine changes to the CZM Program's organization and authority. Based on the previous discussion and impact analysis of these changes, we have determined that these changes further detail Pennsylvania's CZM Program, and are routine changes.

1996 CHANGES TO GEOGRAPHICAL 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 geographical 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.)

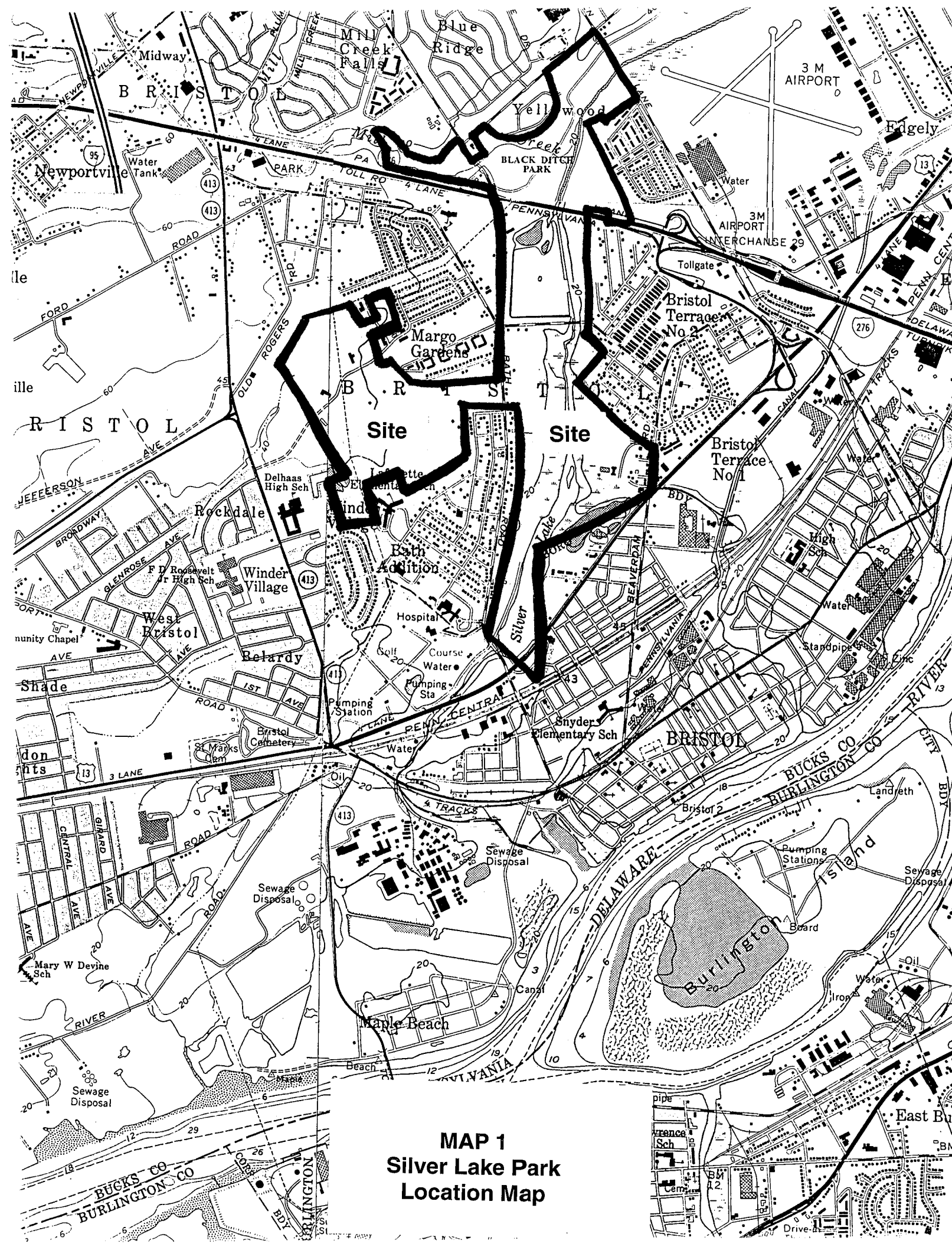
GAPCs can either be designated, or nominated. Designated GAPCs are designated by virtue of state ownership, state regulation, or contractual agreement with the agency, or entity responsible for management of the GAPC. Nominated GAPCs are those areas which the public, state, and federal agencies, interest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

ADDITION OF SILVER LAKE PARK GAPC - Delaware Estuary

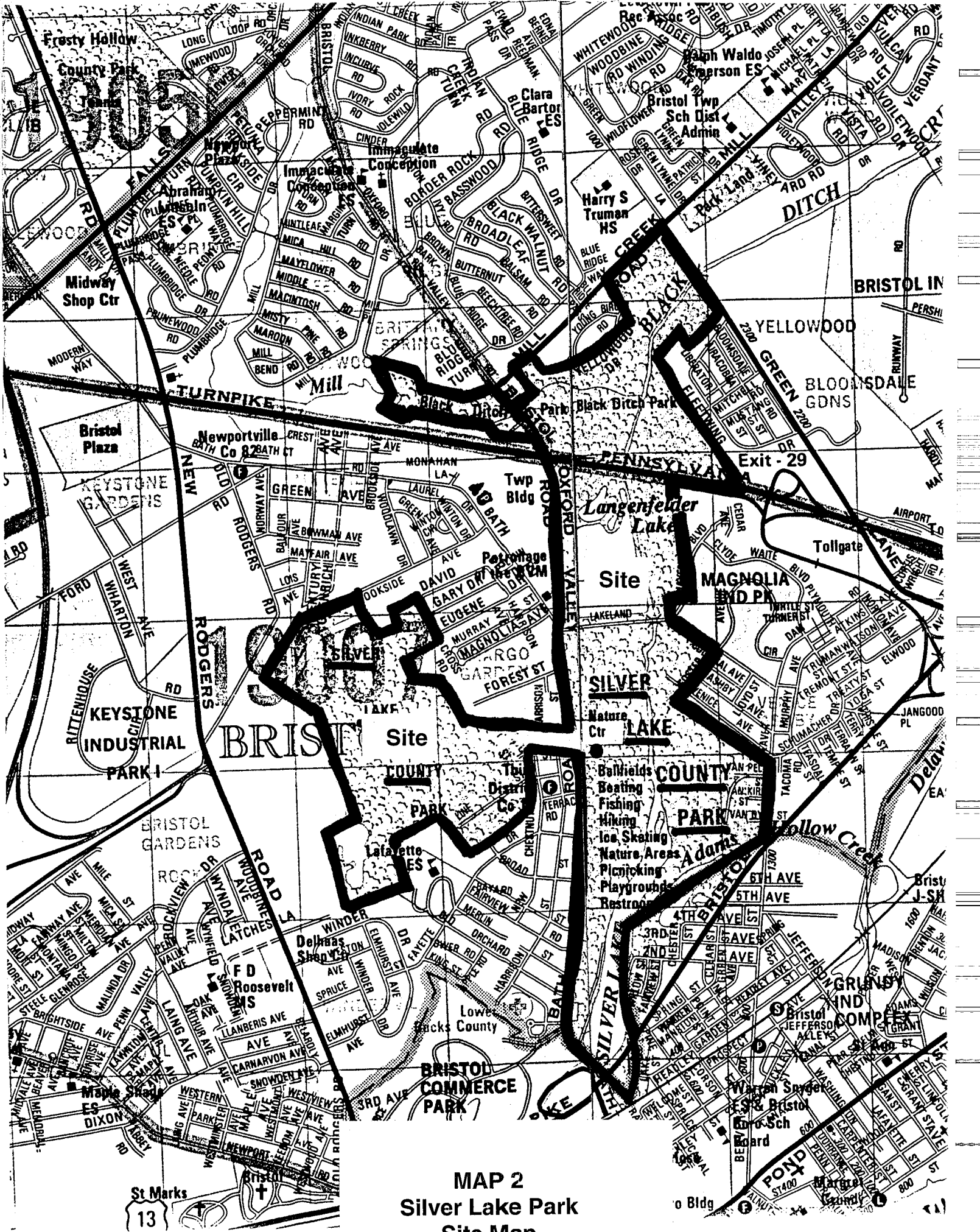
Silver Lake Park in Bristol Township has been nominated as an overlap GAPC (See Map 1). When denoting a GAPC, the distinction between a natural area GAPC and a recreational area GAPC often is not easily defined. In this case, Silver Lake Park possesses both natural amenities and recreational opportunities. By nominating this area as Overlap GAPC, the park's total potential can be realized.

Silver Lake Park is a 568-acre parcel of land in southern Bucks County (See Map 2). The site is bounded by the Pennsylvania Turnpike to the north; private property to the east; private property and Route 13 to the south; and private property, Old Rodgers Road on the west. It is divided by U.S. 13, Bath Road, and Lakeland Avenue. The Park is located in one of the most densely population communities in Bucks County. Along the southern border of the Park is Bristol Borough, which according to the 1990 census has a population density of 6,120 people per square mile. The largest portion of the Park is located within Bristol Township, which has a population density of 3,570 people per square mile.

The Park is owned and maintained by the Bucks County Department of Parks and Recreation. The first parcels were purchased in the early 1960s, with the most recent addition in 1994. The Park offers an almost 1-mile bicycle and exercise trail and 4.5 miles of hiking trails. There are two picnic pavilions, two playgrounds, picnic tables, grills, two restrooms, a maintenance building, five parking areas and open fields for recreational activities.



MAP 1
Silver Lake Park
Location Map



MAP 2
Silver Lake Park
Site Map

- Ballfields
- Boating
- Fishing
- Hiking
- Ice Skating
- Nature Areas
- Picnicking
- Playgrounds
- Restrooms

St Marks
13

o Bldg

On Silver Lake, one can go boating or fish in designated areas. A nature center building and staff provide almost 200 public programs per year and programs to thousands of school children. The nature center has a large meeting room which is used by community organizations for meetings, an amphitheater, an exhibits room, a reference library and a butterfly garden in addition to the trails. The 4.5 miles of trails traverse a variety of habitats including Coastal Plain Forests, meadow both wet and dry, marshes, and lawn.

The Silver Lake Nature Center portion of the Park is 235 acres in size. It contains what has been labeled by the Eastern Pennsylvania Chapter of The Nature Conservancy as their best remaining example of a Coastal Plain Forest in Pennsylvania. An additional Pennsylvania Habitat of Special Concern is the "Unglaciaded Bog" found in the Park. Located in the Coastal Plain of Pennsylvania, the Silver Lake Park is home to at least two animals on the Pennsylvania Species of Special Concern list (Red Belly Turtle, Pseudemys rubriventeris and the Coastal Plain Leopard Frog, Rana utricularia). There have been reported 13 plant species in the Park considered as Pennsylvania Species of Special Concern. The Park is recognized by the Bucks County Planning Commission, the Pennsylvania Natural Diversity Inventory and The Nature Conservancy as significant resources.

As a nominated Overlap GAPC, the Bucks County Department of Parks and Recreation will be able to apply for CZM funding to enhance the Park's service to the community and protect an Exceptional Value Wetland as defined by Title 25, Chapter 105.

ANALYSIS OF IMPACT - Addition of Silver Lake Park GAPC

Local park areas have significant social value to citizens as a resource for recreational and environmental activities associated with the coastal zone. NOAA has suggested that a goal of state coastal programs should be to protect, maintain, or restore these areas.

The Pennsylvania CZM Program's FEIS (page II-3-7) lists the following activities as High Priority uses of areas of significant Recreational, Historic, or Cultural Value (GAPCs):

1. Activities that maintain or increase the resource value of these GAPCs, such as better access and walkways, increased parking, improved security, new park equipment, public boat launches, landscaping, etc.
2. Activities which provide financial support.

Page II-3-5 lists the following activities as High Priority uses for areas of significant Natural Value (GAPCs):

1. Uses that protect, maintain or enhance natural resource functions. The protection of these areas as open space, passive recreation and wildlife preserves, restoration of natural plant communities and the removal of trash are examples of high priority activities.
2. Uses, such as bird watching, hiking, and scientific or educational study, that take advantage of the natural amenities without destroying them.

By nominating Silver Lake Park as an Overlap GAPC (combination of Recreational and Natural Value GAPCs), CZM financial support can be used to maintain, increase and protect the resource value of this Park. The nomination of Silver Lake Park as a GAPC is also in conformance with CZM's Fisheries Management, Wetlands and Public Access Policies found in our FEIS on pages II-2-12, II-2-16 and II-2-17, respectively.

As a result of adding Silver Lake Park as a GAPC, the FEIS' Inventory of GAPC (page II-3-10) will be revised. With the revision (*in bold faced italics*) the Inventory will read as follows:

Identification No.	Recreation, Cultural, and Historic Value Areas	Approx. Size (Acres)
OV-2	Linton Avenue - River Road	82
OV-3	Martins Creek - Van Sciver	116
OV-4	Money Island	448
OV-5	Fordmill Road	90
OV-6	Bristol Riverfront North	37
OV-7	<i>Silver Lake Park</i>	568

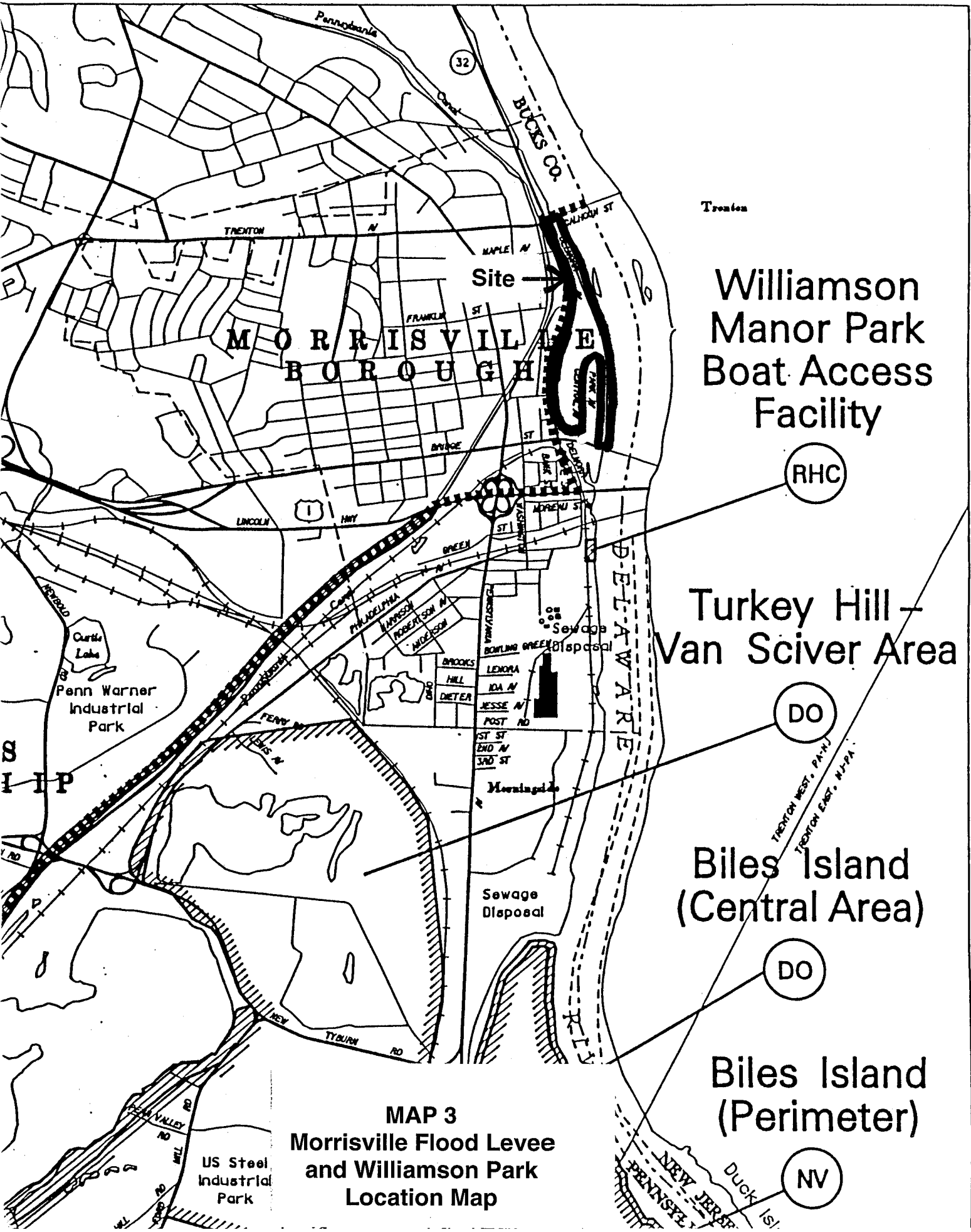
ADDITION OF MORRISVILLE FLOOD LEVEE AND WILLIAMSON PARK GAPC - Delaware Estuary

Both Morrisville Flood Levee and Williamson Park have been nominated as one Recreational, Historical, and Cultural Value GAPC. The two sites are located in Morrisville Borough, and adjoin each other contiguously for the entire length of the park. (See Map 3)

The Morrisville Flood Levee (See Map 4), approximately 5 acres is on the west bank of the Delaware River and extends for 3,960 feet from the intersection of East Trenton Avenue and Delmorr Avenue to East Bridge Street and Delmorr Avenue. The Calhoun Street Bridge is at its northernmost point and the Lower Free Bridge at its southernmost point. The Levee adjoins Delmorr Avenue which veers westward and the Levee continues to adjoin Williamson Park until the park ends at Park Avenue at which point the Levee runs alongside Park Avenue until it terminates at East Bridge Street.

The Levee was constructed by the Commonwealth in 1930; in 1964 the Borough of Morrisville and the Commonwealth entered into an agreement whereby the Levee became the property and responsibility of the Borough. The Borough has maintained the Levee for over 32 years. The normal deterioration of materials, the tidal forces of the Delaware River, floods, ice-storms, etc., have caused cracking of the concrete, silt accumulation, spalling of the walls, missing rip rap facing, growth of vegetation, erosion of soil, etc.

Williamson Park (See Map 4) is contiguously joined with the Flood Levee on the east and Delmorr Avenue on the west; the park is approximately 35 acres and has many facilities including: two pavilions, a stage, six baseball fields, several buildings and dugouts, a batting cage, a soccer field, a tot-lot area, six tennis courts, a basketball court and several acres of open



MAP 3
Morrisville Flood Levee and Williamson Park
Location Map

Trenton

**Williamson
 Manor Park
 Boat Access
 Facility**

RHC

**Turkey Hill -
 Van Sciver Area**

DO

**Biles Island
 (Central Area)**

DO

**Biles Island
 (Perimeter)**

NV

32

BUCKS CO.

MORRISVILLE
 BOROUGH

DELAWARE

Site

Sewage
 Disposal

Morningside

Sewage
 Disposal

Penn Warner
 Industrial
 Park

US Steel
 Industrial
 Park

SHIP

TRENTON WEST, PA-NJ
 TRENTON EAST, NJ-PA

NEW JERSEY
 DUCK ISL.

Pennsylvania

TRENTON

MAPLE AV

FRANKLIN ST

BYRGE ST

LINCOLN HWY

GREEN ST

MORRIS ST

LEWORA

IDA AV

JESSE AV

POST RD

1ST ST

END AV

3RD ST

Sewage
 Disposal

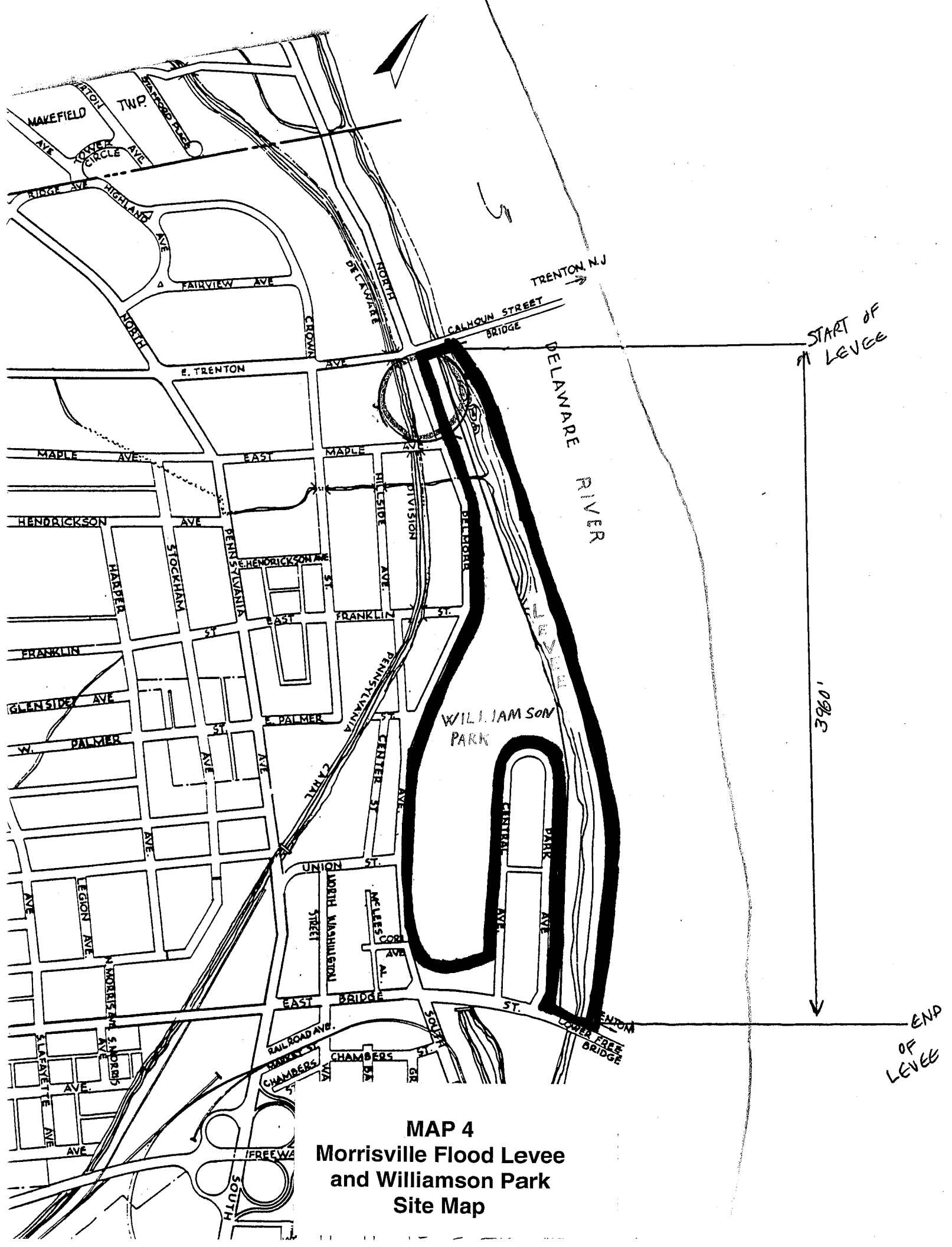
TYGURN RD

WAINLEY RD

7TH MILL RD

8TH MILL RD

9TH MILL RD



MAP 4
Morrisville Flood Levee
and Williamson Park
Site Map

START OF LEVEE

1,960'

END OF LEVEE

space. There are stairways leading to the ridge of the Levee; there is a footpath along the top of the Levee. On the Levee side of the park, there is considerable fishing by residents and visitors. Recently a large playground area (Imagination Island) was constructed by community volunteers with donated materials and equipment. This playground (Leathers) was built in October 1995 and has an insurable value of \$250,000. The park was endowed to the Borough in 1934 and deeded in 1938 and is under the care and custody of the Borough.

ANALYSIS OF IMPACT - Addition of Morrisville Flood Levee and Williamson Park GPC

As previously discussed under Silver Lake Park GPC, local park areas have significant social value to citizens as a resource for recreational and cultural activities associated with the coastal zone. Activities that maintain, increase or provide financial support to the resource value of these areas are rated as a high priority for state coastal programs by NOAA. By nominating Morrisville Flood Levee and Williamson Park as an Overlap GPC, CZM Program financial support can be used to preserve and maintain the resource value of this area.

The addition of Morrisville Flood Levee and Williamson Park GPC is in conformance with CZM's Coastal Hazard, Fishery Management, and Public Access Policies found in our FEIS on pages II-2-3, II-2-12 and II-2-17, respectively.

As a result of adding Morrisville Flood Levee and Williamson Park GPC, the FEIS' Inventory of GPC (see page II-3-10) will be revised. With the revisions (*in bold faced italics*) the Inventory will read as follows:

Identification No.	Recreation, Cultural, and Historic Value Areas	Approx. Size (Acres)
R-11	Biddle Estate	88
R-12	Bucks County Delaware River Access Area	8
R-13	Columbus Country Club	19
R-14	Philadelphia Gun Club	18
*R-15	Neshaminy State Park	356
R-16	Creekroad-South	26
R-17	Riverside Avenue Redevelopment Area	22
R-18	Radcliff Street	78
*R-19	Pennsylvania Canal	80
R-20	Bordentown Road Causeway	62
*R-21	Pennsbury Manor State Park	40
R-22	Falls Township River Access Area	16
R-23	Williamson Manor Park Boat Access Facility	1
<i>R-24</i>	<i>Morrisville Flood Levee and Williamson Park</i>	<i>40</i>

*Denotes state ownership

EXPANSION OF RIVERSIDE AVENUE REDEVELOPMENT AREA GAPC -

Delaware Estuary

Bristol Township has proposed the expansion of the Riverside Avenue Redevelopment Area GAPC (See Map 5). This existing recreational/historic/cultural value GAPC is approximately 22 acres in size, and has been in existence since 1980. However, for some unknown reason a 2.5 acre strip of land located between Riverside Avenue and the banks of the Neshaminy Creek was not included (See Map 6). This area, known as Riverside Park will be added to the existing Riverside Avenue Redevelopment GAPC (See Map 7).

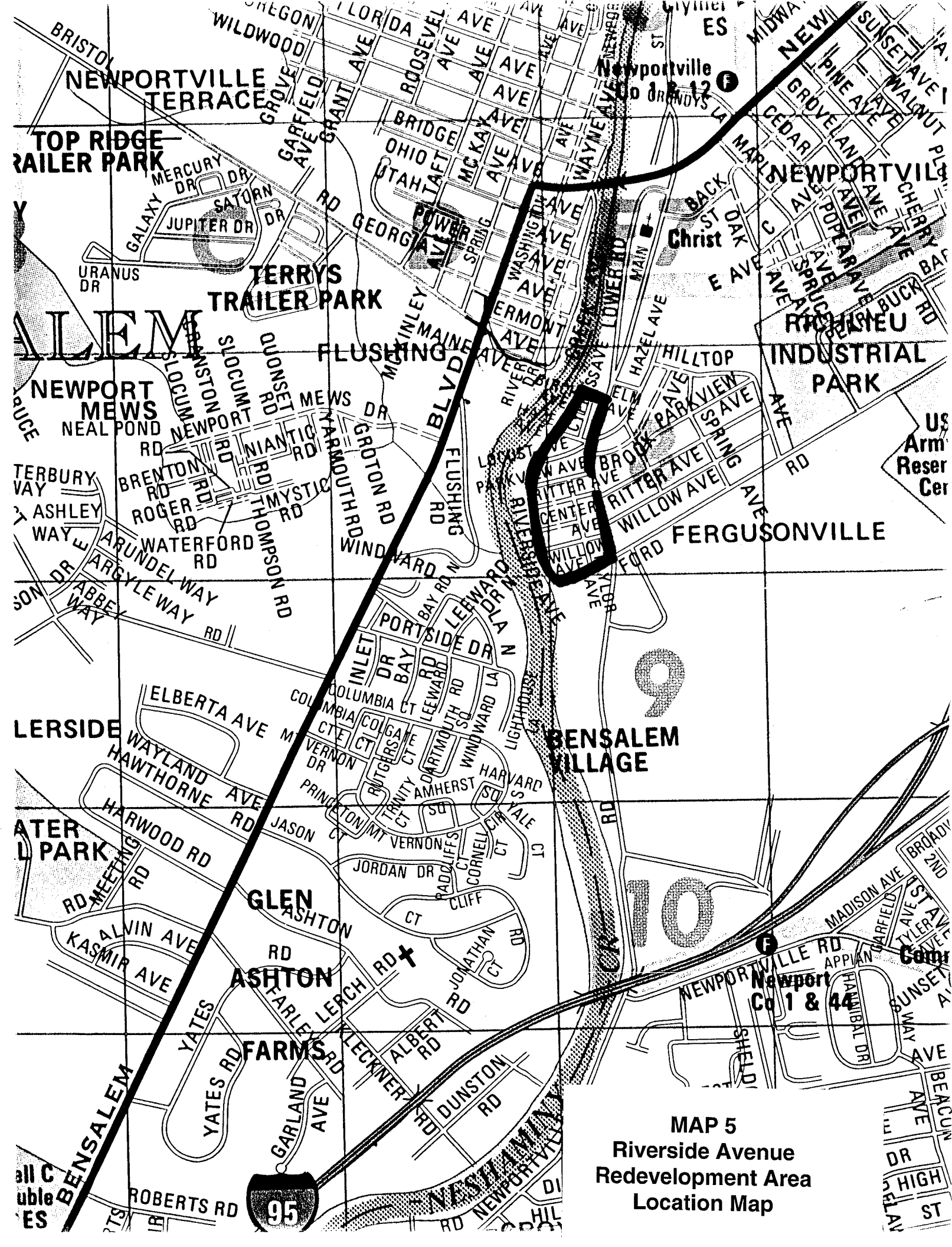
The Riverside Park area is bounded by the Neshaminy Creek, Riverside Avenue, Ford Road, and Oak Avenue in Bristol Township's Fergusonville Neighborhood, and is adjacent to the Newportville Neighborhood. Newportville is listed on the National Register as an Historic District. Primary site accessibility is from Ford Road and Hazel Avenue. This entire area was part of a Redevelopment Project due to severe flooding in 1977. Riverside Avenue has been closed off to transportation for years; its length from Ford Road to Hazel Avenue is approximately 1390 feet; and from Hazel Avenue to the end near Oak Avenue is an additional 400 feet. Bristol Township owns the site. The area is an extremely pleasant, but unusable portion of land which could be put to wonderful use for passive recreation. Bristol Township's intent is to resurface Riverside Avenue for pedestrians only, giving access to the Neshaminy Creek for fishing, nature walks, etc. By designating the entire Riverside Park area as an area of significant recreational, historical, or cultural value, Bristol Township will be able to apply for CZM funds to undertake improvements at the Park.

ANALYSIS OF IMPACT - Expansion of Riverside Avenue Redevelopment Area GAPC

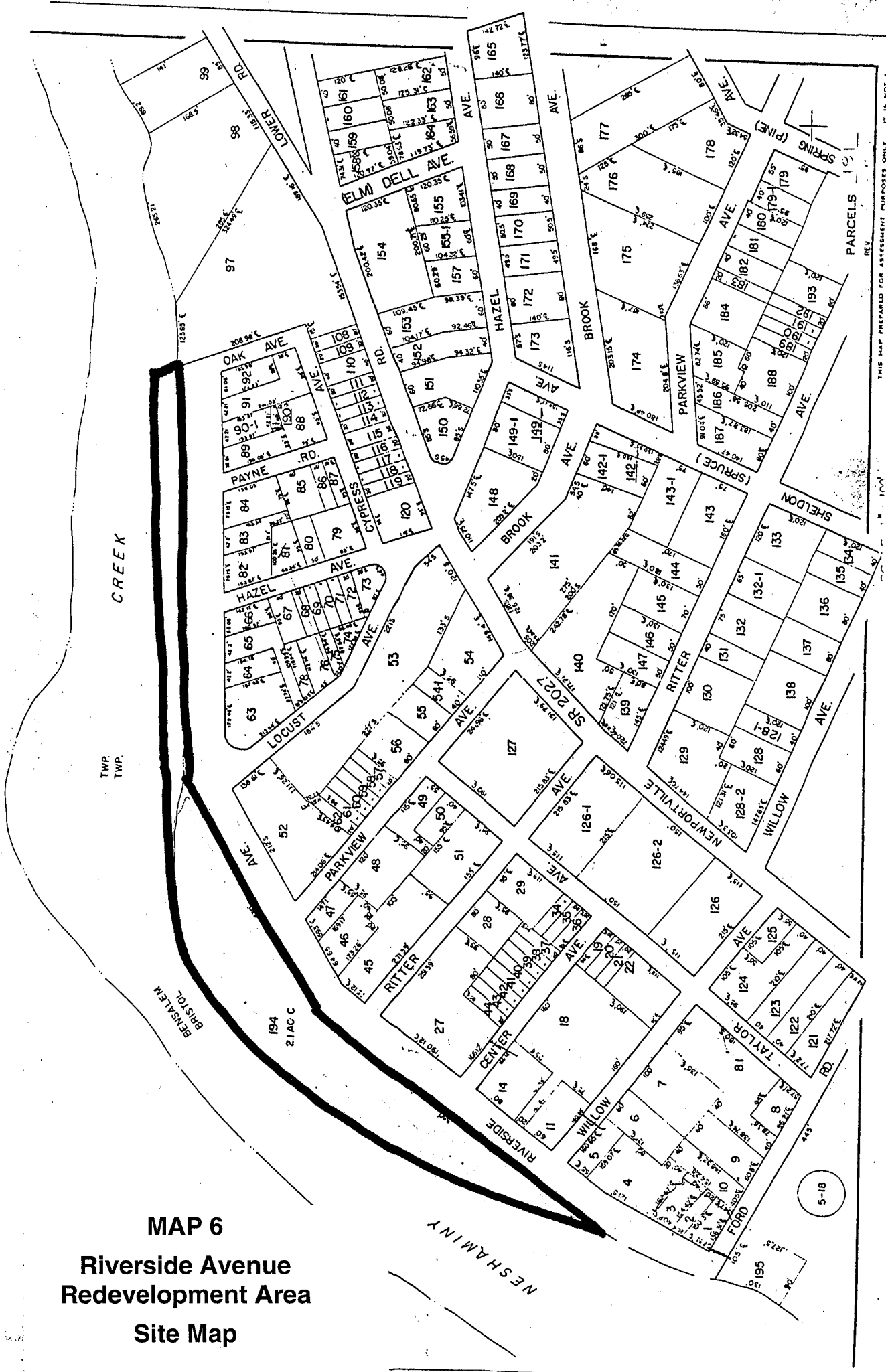
As previously discussed under the Silver Lake Park GAPC, local park areas have significant social value to citizens as a resource for recreational and cultural activities associated with the coastal zone. Activities that maintain, increase or provide financial support to the resource value of these areas are rated as a high priority for state coastal programs by NOAA. By expanding the Riverside Redevelopment Area GAPC to include the 2.5 acre tract of land known as Riverside Park, CZM Program financial support can be used to preserve and maintain the value of this park area.

The expansion of Riverside Avenue Redevelopment Area GAPC is in conformance with CZM's Coastal Hazard, Fishery Management, and Public Access Policies found in our FEIS on pages II-2-3, II-2-12 and II-2-17, respectively.

As a result of expanding the Riverside Avenue Redevelopment Area GAPC, the FEIS' Inventory of GAPC (see page II-3-10) will be revised. With the revisions (*in bold faced italics*) the Inventory will read as follows:

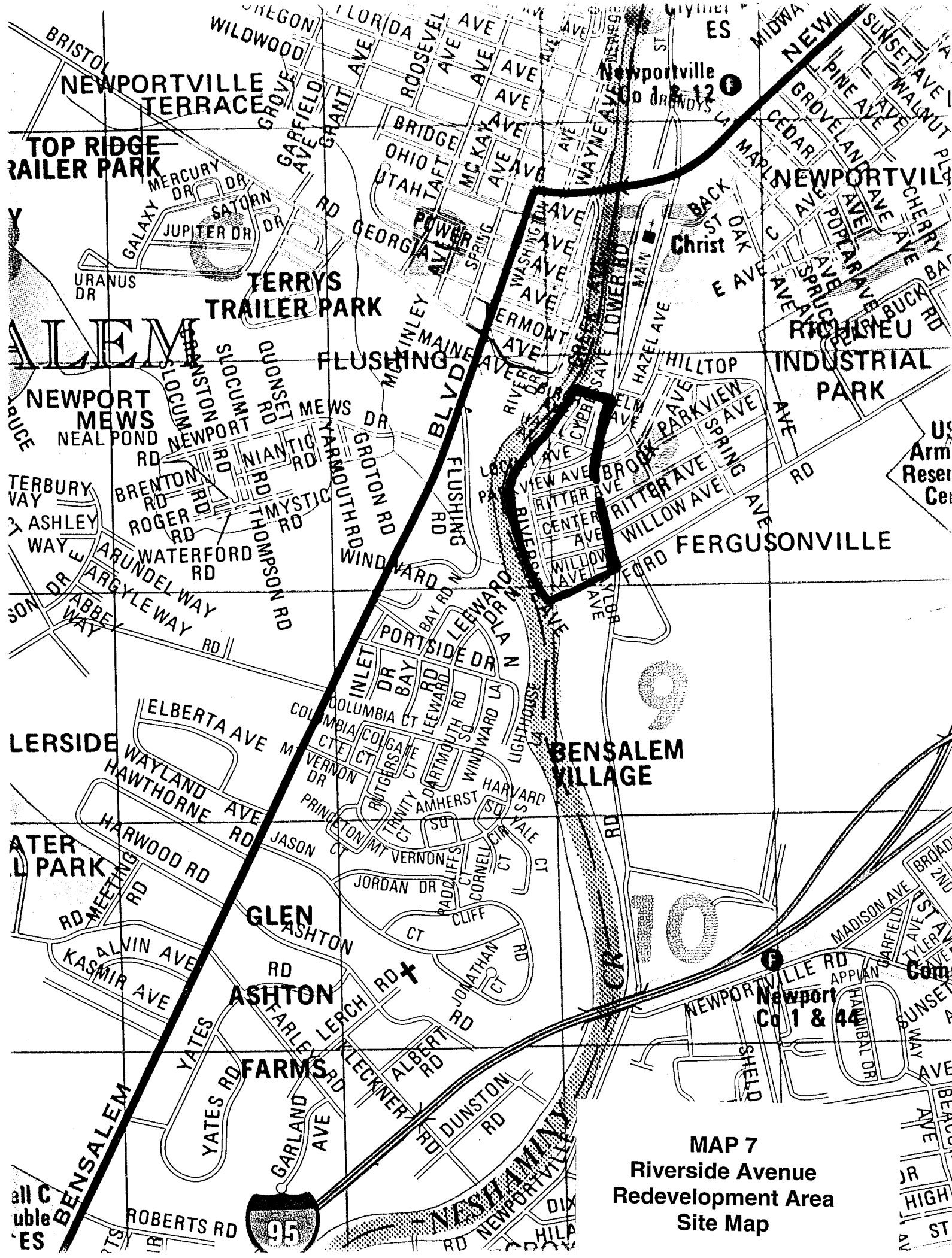


MAP 5
Riverside Avenue
Redevelopment Area
Location Map



MAP 6
Riverside Avenue
Redevelopment Area
Site Map

5-18



MAP 7
Riverside Avenue
Redevelopment Area
Site Map

Identification No.	Recreation, Cultural, and Historic Value Areas	Approx. Size (Acres)
R-11	Biddle Estate	88
R-12	Bucks County Delaware River Access Area	8
R-13	Columbus Country Club	19
R-14	Philadelphia Gun Club	18
*R-15	Neshaminy State Park	356
R-16	Creekroad-South	26
R-17	Riverside Avenue Redevelopment Area	24.5
R-18	Radcliff Street	78
*R-19	Pennsylvania Canal	80
R-20	Bordentown Road Causeway	62
*R-21	Pennsbury Manor State Park	40
R-22	Falls Township River Access Area	16
R-23	Williamson Manor Park Boat Access Facility	1
R-24	Morrisville Flood Levee and Williamson Park	40

*Denotes state ownership

SUMMARY AND CONCLUSION OF 1996 GAPC CHANGES - Addition of Silver Lake Park, Morrisville Flood Levee and Williamson Park GAPCs, and expansion of Riverside Avenue Redevelopment Area GAPC

The addition of Silver Lake Park, Morrisville Flood Levee and Williamson Park GAPCs, and expansion of Riverside Avenue Redevelopment Area GAPC are not substantial changes to the existing Inventory of GAPC, but are routine. By nominating these areas as GAPCs, CZM financial support can be used to preserve, protect, and provide for additional recreational opportunities in Pennsylvania's Coastal Zones.

These GAPC changes are routine changes to Chapter 3 - Special Management Areas of Pennsylvania CZM's FEIS. The Special Management Areas of CZM's FEIS contain criteria or procedures for designating or managing GAPCs, or areas for preservation or restoration. Based on the previous discussion and impact analysis concerning the addition of Silver Lake Park, Morrisville Flood Levee and Williamson Park GAPCs, and expansion of Riverside Avenue Redevelopment Area GAPC, we have determined that these GAPC changes further detail and are routine changes to Pennsylvania's CZM Program.

1996 SECTION 309 PROGRAM CHANGES

INTRODUCTION - SECTION 309 PROGRAM CHANGES

Section 309 of the Federal CZM Act, as amended in 1990 encouraged coastal states to reassess their CZM Programs. One purpose of the reassessment was for coastal states to identify new coastal problems that have arisen since the original state program's approval; and to develop program changes to resolve these problems.

After assessing the Program, CZM identified the need to develop a Special Area Management Plan (SAMP) to address long-standing multiple issues affecting the Lake Erie shoreline. However, as a prerequisite to developing this SAMP, CZM was first required under Section 309 to develop and adopt a SAMP planning process that could be used to address other multifaceted coastal problems that may be identified in the future.

The following CZM Program change resulting from Section 309 will add a SAMP planning process to Pennsylvania's CZM Program.

PROPOSED ADDITION OF SAMP PROCESS

In 1996, during its 309 assessment CZM recognized the need to address areas that are of particular importance because of their coastal-related values or characteristics, or because they may face pressures which require detailed attention beyond the general planning and regulatory system which is part of the regulatory program. As a result, these areas require special management attention within the terms of the State's overall coastal program. This special management may include regulatory or permit requirements applicable only to the area of particular concern. It also may include increased intergovernmental coordination, technical assistance, enhanced public expenditures, or additional public services and maintenance to a designated area. "Special Management Areas" are, therefore, areas of unique natural resource value, including those exhibiting scarce or vulnerable natural habitats and physical features; those offering substantial recreational value; those of particular economic value; and those of vital importance in protecting and maintaining coastal resources. An area or resource must meet one or more of the following criteria to be designated a Special Management Area.

- (1) The area is a unique, scarce, fragile, or vulnerable natural habitat; a unique or fragile physical figuration; or an area of historical significance, cultural value, or scenic importance;
- (2) The area demonstrates high natural productivity or essential habitat for living resources, including fish, wildlife, and endangered species and the various trophic levels in the food web critical to their well-being;
- (3) The area is one of substantial recreational value and/or opportunity;

- (4) The area is one where developments and facilities are dependent upon the utilization of, or access to, coastal waters;
- (5) The area has unique hydrologic, geologic, or topographic significance for industrial or commercial development or for dredge spoil disposal;
- (6) The area is one of urban concentration where shoreline utilization and water uses are highly competitive;
- (7) The area is one where, if development were permitted, it might be subject to significant hazard due to storms, slides, floods, erosion, settlement, salt water intrusion, and sea level rise, and/or
- (8) The area is necessary for the continued protection, maintenance, or replenishment of coastal lands or resources including coastal flood plains, aquifers, and their recharge areas, estuaries, sand dunes, beaches, shallow water habitats, and offshore sand deposits.

THE SAMP PROCESS

As a result of the 1996 Section 309 assessment, Pennsylvania CZM developed the following SAMP planning process. This process (*in bold faced italics*) will be incorporated into Chapter 3 - Special Management Concerns, of CZM's FEIS. Chapter 3 begins on page II-3-1.

SPECIAL AREA MANAGEMENT PLANS (SAMPs)

Introduction

In Pennsylvania, the coastal zones consist of two widely separated and diverse areas. Because of this diversity, policies are often difficult to apply in a uniform fashion and management techniques have to be developed or modified to meet a specific problem. Coastal zone issues in Pennsylvania are often multifaceted, complex, and of regional importance. Contributions from many agencies, levels of government and areas of expertise may be necessary for effective management. The Coastal Zone Management Program (PCZM) is organized to meet this requirement, but a more systematic, streamlined approach is needed to address multiple issues.

The Special Area Management Plan (SAMP) is a comprehensive process which will enable PCZM to integrate natural resource protection and sustainable land use practices. SAMPs build consensus through issue identification and dispute resolution and provide a basic framework to resolve future conflicts in resource protection. This process lends itself very well to the Commonwealth's distinctly diverse coastal zones and will enable PCZM to enhance management of a variety of unique coastal issues through an institutionalized mechanism leading to program change.

Purpose of Developing Special Area Management Plans

A major purpose for developing Special Area Management Plans is to better focus PCZM grant and staff resources, as well as those of other agencies, on a unique geographic area of regional importance involving multiple coastal issues. SAMPs establish a process which is intended to preserve, protect, enhance or restore the values for which an area is designated. The plan will contain a justification for designation, a description of the issues and activities affecting an identified resource, the reasons why an area should be managed, a discussion of appropriate and inappropriate activities and uses in the area, and the rationale for the designation of those uses. It will also include an identification of existing enforceable policies which can be applied to managing the area, and additional authorities, administrative procedures and projects which may be used to implement the proposed management plan.

Special Area Management Plans are authorized by the National Coastal Zone Management Act, as amended by the Coastal Zone Protection Act of 1996 (PL 104-540), which outlines programmatic objectives for Coastal Zone Enhancement Grants in Section 309. Unless multiple management issues of regional importance exist that require a SAMP, enhancement activities are better addressed through the other appropriate categories:

- 1. Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.***
- 2. Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.***
- 3. Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.***
- 4. Reducing marine debris entering the Nation's coastal and ocean environment by managing uses and activities which contribute to the entry of such debris.***
- 5. Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.***
- 6. Preparing and implementing special area management plans for important coastal areas.***
- 7. Planning for the use of (coastal) resources.***

8. *Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.*
9. *Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, enabling States to formulate, administer and implement strategic plans for marine aquaculture.*

Criteria for Special Area Management Plans in Pennsylvania

Coastal Zone Management Program Regulations (15 CFR Part 923.23) further express that a coastal state management program may designate specific areas known to require additional or special management, but for which additional management techniques have not been developed or necessary authorities have not been established at the time of program approval. As a means of enhancing coastal resource management in Pennsylvania, the following sections establish a process for identifying and designating areas for special management planning.

1. *As general criteria, special management areas will:*
 - a. *Be of identifiable regional interest.*
 - b. *Involve multiple coastal issues and objectives as defined by PCZM in Chapter 2, Coastal Zone Policy Framework*
 - c. *Include several areas and activities which would demonstrably benefit from enhanced management.*
2. *Among the specific criteria which will be considered in selecting areas for special management planning are:*
 - a. *Areas where coastal resources are being severely affected by cumulative or secondary impacts of development.*
 - b. *Areas involving multiple management authorities or use conflicts where resource management could be enhanced, particularly where resource protection competes with economic development.*
 - c. *Areas where there is a strong commitment at all levels of government to enter into a comprehensive planning process.*
 - d. *Areas where there is a state or regional authority willing and capable of formulating the necessary management policies and techniques, who will provide for maximum participation by all affected parties.*
 - e. *Areas where hazardous conditions may affect public health and safety.*

- f. Areas where there exist resources of special scientific or research value.*
- g. Areas which could provide for enhanced public access for recreation or lack a clear definition of public trust resources.*

Process for Nomination and Designation of SAMPs

Because of the multi-faceted nature of the issues affecting areas designated for special management planning, federal procedural updates and the time and resource requirements involved, Special Area Management Plans will be designated through the periodic 309 Assessment and Strategy process. Nominations may be made to PCZM at the time of public comment on the Assessment document, through the related 309 public involvement process. The purpose of 309 Program Enhancement Grants is to generate programmatic improvements in state coastal zone management programs, so the actual designation of areas requiring special management planning will of necessity be made by the Pennsylvania Coastal Zone Management Program. The endorsement of areas designated for SAMPs will take place as part of the Strategy review process identified by the relevant 309 guidance.

ANALYSIS OF IMPACT - Addition of a SAMP Planning Process

The addition of a SAMP planning process to Pennsylvania's CZM Program is provided for, and encouraged by Section 309 of the Federal CZM Act. The SAMP planning process is necessary to adequately address Pennsylvania's coastal areas that are of particular importance because of their coastal-related values or characteristics, or because they may face multifaceted problems which require detailed attention beyond the general planning and regulatory system. As a result, these areas require special management attention within the terms of the Pennsylvania's overall CZM Program.

The SAMP process will be formally added to Chapter 3 - Special Management Concerns of Pennsylvania CZM Program's FEIS.

SUMMARY AND CONCLUSIONS - Addition of a SAMP Planning Process

The addition of a SAMP planning process is not a substantial change to the Pennsylvania CZM Program, but is routine. This planning process is provided for by Section 309 of the Federal CZM Act.

Once incorporated, CZM will use the process to develop a SAMP to address several identified problems in the Lake Erie coastal zone, that to date have not been adequately addressed by the CZM Program's general planning and regulatory tools. The incorporated SAMP process will become part of the formal CZM Program, and will also be used to address any other multifaceted problems that are identified in the future.

This proposed change is a routine change to Chapter 3 - Special Management Areas, of Pennsylvania CZM's FEIS. The special management areas of CZM's FEIS contain criteria or

procedures for designating or managing GAPCs, or areas for preservation or restoration. Based on the previous discussion and impact analysis of the SAMP process, we have determined that this planning process further details, and is a routine change to Pennsylvania's CZM Program.

1996 REGULATORY CHANGES REQUIRED UNDER THE FEDERAL CLEAN AIR AND CLEAN WATER ACTS

INTRODUCTION - INCORPORATION OF FEDERAL 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 per the incorporation process, 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 127 - Construction, Modification, Reactivation and Operation of Sources (Amended November 1996)

Chapter 127 regulates air contamination sources for the public welfare. Air quality shall be maintained at existing levels in areas where the existing ambient air quality is better than the applicable ambient air quality standards, and air quality shall be improved to achieve the applicable ambient air quality standards in areas where the existing air quality is worse than the applicable ambient air quality standards.

In accordance with this purpose, Chapter 127 is designed to insure that new sources conform to the applicable standards of this article and that they do not result in producing ambient air contaminant concentrations in excess of those specified in Chapter 131 (relating to ambient air quality standards). New sources shall control the emission of air pollutants to the maximum extent, consistent with the best available technology as determined by DEP as of the date of issuance of the plan approval for the new source.

Chapter 127 has been amended by adding Subchapter J (relating to general conformity). The amendment adopts and incorporates by reference the General Conformity Rule promulgated by the United States Environmental Protection Agency under Section 176(c) of the Federal Clean Air Act Amendments of 1990 (CAA) in its entirety. The regulations are contained in 40 CFR Part 93, Subpart B (relating to determining conformity of general federal actions to state or federal implementation plans) with respect to the conformity of general federal actions to the Commonwealth's State Implementation Plan (SIP).

Subchapter J will ensure that federal actions do not adversely affect the timely attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) or emission reduction

plans leading to attainment. The intent of integrating federal actions with air quality planning is to protect the Commonwealth's air quality by helping to ensure that SIP growth projections are not exceeded, emission reduction targets are achieved, and air quality attainment and maintenance efforts are not undermined.

Under Section 176(c) of the CAA, departments, agencies or instrumentalities of the federal government are not permitted to engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to the Commonwealth's SIP. Prior to taking any action, a determination that the proposed federal action conforms to SIP must be made by the federal agency in accordance with the policy, criteria and procedures contained in 40 CFR Part 93, Subpart B.

The addition of Subchapter J will not impact any existing Commonwealth air quality regulations. The conformity determination, which examines direct and indirect emissions of regulated air pollutants resulting from the federal actions, is the responsibility of the federal agency taking the actions. Conformity with the applicable SIP must be determined prior to initiating any federal action and the results of the conformity determination must be made available for review by the general public.

NOTICE OF INCORPORATION

Chapter 127 is contained in the following policies:

- Policy VIII-1: Energy Facility Siting/Permitting, page II-2-25 (Chapters 93, 121, 127, and 129)
- Policy IX-B.2: Intergovernmental Coordination/Air Quality, page II-2-31 (Chapters 127 and 129)

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 Act have been incorporated into the Pennsylvania CZM Program.