
APPENDIX L
COASTAL ZONE MANAGEMENT

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- L.1 Federal Consistency Assessment Form (FCAF) from the State of New York's Coastal Management Program (CMP)
 - L.2 Consistency Assessment Form (CAF) from the New York City's Waterfront Revitalization Program (WRP)
 - L.3 Coastal Zone Consistency Assessments for the States of New Jersey and New York and for the City of New York
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Appendix L.1
Federal Consistency Assessment Form (FCAF) from the
State of New York's Coastal Management Program (CMP)

NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM
Federal Consistency Assessment Form

An applicant, seeking a permit, license, waiver, certification or similar type of approval from a federal agency which is subject to the New York State Coastal Management Program (CMP), shall complete this assessment form for any proposed activity that will occur within and/or directly affect the State's Coastal Area. This form is intended to assist an applicant in certifying that the proposed activity is consistent with New York State's CMP as required by U.S. Department of Commerce regulations (15 CFR 930.57). It should be completed at the time when the federal application is prepared. The Department of State will use the completed form and accompanying information in its review of the applicant's certification of consistency.

A. APPLICANT (please print)

1. Name: _____
2. Address: _____
3. Telephone: Area Code () _____

B. PROPOSED ACTIVITY

1. Brief description of activity:

2. Purpose of activity:

3. Location of activity:

County	City, Town, or Village	Street or Site Description
4. Type of federal permit/license required: _____
5. Federal application number, if known: _____
6. If a state permit/license was issued or is required for the proposed activity, identify the state agency and provide the application or permit number, if known:

C. COASTAL ASSESSMENT Check either "YES" or "NO" for each of these questions. The numbers following each question refer to the policies described in the CMP document (see footnote on page 2) which may be affected by the proposed activity.

- | | | |
|----|---|----------------------|
| 1. | Will the proposed activity <u>result</u> in any of the following: | <u>YES</u> <u>NO</u> |
| | a. Large physical change to a site within the coastal area which will require the preparation of an environmental impact statement? (11, 22, 25, 32, 37, 38, 41, 43) | <u>X</u> <u> </u> |
| | b. Physical alteration of more than two acres of land along the shoreline, land under water or coastal waters? (2, 11, 12, 20, 28, 35, 44) | <u>X</u> <u> </u> |
| | c. Revitalization/redevelopment of a deteriorated or underutilized waterfront site? (1) | <u>X</u> <u> </u> |
| | d. Reduction of existing or potential public access to or along coastal waters? (19, 20) | <u> </u> <u>X</u> |
| | e. Adverse effect upon the commercial or recreational use of coastal fish resources? (9,10) | <u> </u> <u>X</u> |
| | f. Siting of a facility essential to the exploration, development and production of energy resources in coastal waters or on the Outer Continental Shelf? (29) | <u> </u> <u>X</u> |
| | g. Siting of a facility essential to the generation or transmission of energy? (27) | <u> </u> <u>X</u> |
| | h. Mining, excavation, or dredging activities, or the placement of dredged or fill material in coastal waters? (15, 35) | <u>X</u> <u> </u> |
| | i. Discharge of toxics, hazardous substances or other pollutants into coastal waters? (8, 15, 35) | <u>X</u> <u> </u> |
| | j. Draining of stormwater runoff or sewer overflows into coastal waters? (33) | <u>X</u> <u> </u> |
| | k. Transport, storage, treatment, or disposal of solid wastes or hazardous materials? (36, 39) | <u>X</u> <u> </u> |
| | l. Adverse effect upon land or water uses within the State's small harbors? (4) | <u> </u> <u>X</u> |
| 2. | Will the proposed activity <u>affect</u> or be <u>located</u> in, on, or adjacent to any of the following: | <u>YES</u> <u>NO</u> |
| | a. State designated freshwater or tidal wetland? (44) | <u>X</u> <u> </u> |
| | b. Federally designated flood and/or state designated erosion hazard area? (11, 12, 17,) | <u>X</u> <u> </u> |
| | c. State designated significant fish and/or wildlife habitat? (7) | <u>X</u> <u> </u> |
| | d. State designated significant scenic resource or area? (24) | <u> </u> <u>X</u> |
| | e. State designated important agricultural lands? (26) | <u> </u> <u>X</u> |
| | f. Beach, dune or barrier island? (12) | <u> </u> <u>X</u> |
| | g. Major ports of Albany, Buffalo, Ogdensburg, Oswego or New York? (3) | <u>X</u> <u> </u> |
| | h. State, county, or local park? (19, 20) | <u>X</u> <u> </u> |
| | i. Historic resource listed on the National or State Register of Historic Places? (23) | <u>X</u> <u> </u> |
| 3. | Will the proposed activity <u>require</u> any of the following: | <u>YES</u> <u>NO</u> |
| | a. Waterfront site? (2, 21, 22) | <u>X</u> <u> </u> |
| | b. Provision of new public services or infrastructure in undeveloped or sparsely populated sections of the coastal area? (5) | <u> </u> <u>X</u> |
| | c. Construction or reconstruction of a flood or erosion control structure? (13, 14, 16) | <u>X</u> <u> </u> |
| | d. State water quality permit or certification? (30, 38, 40) | <u>X</u> <u> </u> |
| | e. State air quality permit or certification? (41, 43) | <u>X</u> <u> </u> |
| 4. | Will the proposed activity <u>occur within</u> and/or <u>affect</u> an area covered by a State approved local waterfront revitalization program? (see policies in local program document) | <u>X</u> <u> </u> |

D. ADDITIONAL STEPS

1. If all of the questions in Section C are answered "NO", then the applicant or agency shall complete Section E and submit the documentation required by Section F.
2. If any of the questions in Section C are answered "YES", then the applicant or agent is advised to consult the CMP, or where appropriate, the local waterfront revitalization program document*. The proposed activity must be analyzed in more detail with respect to the applicable state or local coastal policies. On a separate page(s), the applicant or agent shall: (a) identify, by their policy numbers, which coastal policies are affected by the activity, (b) briefly assess the effects of the activity upon the policy; and, (c) state how the activity is consistent with each policy. Following the completion of this written assessment, the applicant or agency shall complete Section E and submit the documentation required by Section F.

E. CERTIFICATION

The applicant or agent must certify that the proposed activity is consistent with the State's CMP or the approved local waterfront revitalization program, as appropriate. If this certification cannot be made, the proposed activity shall not be undertaken. If this certification can be made, complete this Section.

"The proposed activity complies with New York State's approved Coastal Management Program, or with the applicable approved local waterfront revitalization program, and will be conducted in a manner consistent with such program."

Applicant/Agent's Name: _____

Address: _____

Telephone: Area Code () _____

Applicant/Agent's Signature: _____ Date: _____

F. SUBMISSION REQUIREMENTS

1. The applicant or agent shall submit the following documents to the New York State Department of State, Division of Coastal Resources, 41 State Street - 8th Floor, Albany, New York 12231.
 - a. Copy of original signed form.
 - b. Copy of the completed federal agency application.
 - c. Other available information which would support the certification of consistency.
2. The applicant or agent shall also submit a copy of this completed form along with his/her application to the federal agency.
3. If there are any questions regarding the submission of this form, contact the Department of State at (518) 474-6000.

*These state and local documents are available for inspection at the offices of many federal agencies, Department of environmental Conservation and Department of State regional offices, and the appropriate regional and county planning agencies. Local program documents are also available for inspection at the offices of the appropriate local government.

Appendix L.2
Consistency Assessment Form (CAF) from the New York
City's Waterfront Revitalization Program (WRP)

For Internal Use Only:

WRP no. _____

Date Received: _____

DOS no. _____

NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM Consistency Assessment Form

Proposed actions that are subject to CEQR, ULURP or other local, state or federal discretionary review procedures, and that are within New York City's designated coastal zone, must be reviewed and assessed for their consistency with the New York City Waterfront Revitalization Program (WRP). The WRP was adopted as a 197-a Plan by the Council of the City of New York on October 13, 1999, and subsequently approved by the New York State Department of State with the concurrence of the United States Department of Commerce pursuant to applicable state and federal law, including the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. As a result of these approvals, state and federal discretionary actions within the city's coastal zone must be consistent to the maximum extent practicable with the WRP policies and the city must be given the opportunity to comment on all state and federal projects within its coastal zone.

This form is intended to assist an applicant in certifying that the proposed activity is consistent with the WRP. It should be completed when the local, state, or federal application is prepared. The completed form and accompanying information will be used by the New York State Department of State, other state agencies or the New York City Department of City Planning in their review of the applicant's certification of consistency.

A. APPLICANT

1. Name: _____
2. Address: _____
3. Telephone: _____ Fax: _____ E-mail: _____
4. Project site owner: _____

B. PROPOSED ACTIVITY

1. Brief description of activity:

2. Purpose of activity:

3. Location of activity: (street address/borough or site description):

Proposed Activity Cont'd

- 4. If a federal or state permit or license was issued or is required for the proposed activity, identify the permit type(s), the authorizing agency and provide the application or permit number(s), if known:

- 5. Is federal or state funding being used to finance the project? If so, please identify the funding source(s).

- 6. Will the proposed project require the preparation of an environmental impact statement?
 Yes _____ No _____ If yes, identify Lead Agency:

- 7. Identify **city** discretionary actions, such as a zoning amendment or adoption of an urban renewal plan, required for the proposed project.

C. COASTAL ASSESSMENT

Location Questions:

Yes No

- 1. Is the project site on the waterfront or at the water's edge? _____
- 2. Does the proposed project require a waterfront site? _____
- 3. Would the action result in a physical alteration to a waterfront site, including land along the shoreline, land underwater, or coastal waters? _____

Policy Questions

Yes No

The following questions represent, in a broad sense, the policies of the WRP. Numbers in parentheses after each question indicate the policy or policies addressed by the question. The new Waterfront Revitalization Program offers detailed explanations of the policies, including criteria for consistency determinations.

Check either "Yes" or "No" for each of the following questions. For all "yes" responses, provide an attachment assessing the effects of the proposed activity on the relevant policies or standards. Explain how the action would be consistent with the goals of those policies and standards.

- 4. Will the proposed project result in revitalization or redevelopment of a deteriorated or under-used waterfront site? (1) _____
- 5. Is the project site appropriate for residential or commercial redevelopment? (1.1) _____
- 6. Will the action result in a change in scale or character of a neighborhood? (1.2) _____

Policy Questions cont'd

Yes No

7. Will the proposed activity require provision of new public services or infrastructure in undeveloped or sparsely populated sections of the coastal area? (1.3) _____
8. Is the action located in one of the designated Significant Maritime and Industrial Areas (SMIA): South Bronx, Newtown Creek, Brooklyn Navy Yard, Red Hook, Sunset Park, or Staten Island? (2) _____
9. Are there any waterfront structures, such as piers, docks, bulkheads or wharves, located on the project sites? (2) _____
10. Would the action involve the siting or construction of a facility essential to the generation or transmission of energy, or a natural gas facility, or would it develop new energy resources? (2.1) _____
11. Does the action involve the siting of a working waterfront use outside of a SMIA? (2.2) _____
12. Does the proposed project involve infrastructure improvement, such as construction or repair of piers, docks, or bulkheads? (2.3, 3.2) _____
13. Would the action involve mining, dredging, or dredge disposal, or placement of dredged or fill materials in coastal waters? (2.3, 3.1, 4, 5.3, 6.3) _____
14. Would the action be located in a commercial or recreational boating center, such as City Island, Sheepshead Bay or Great Kills or an area devoted to water-dependent transportation? (3) _____
15. Would the proposed project have an adverse effect upon the land or water uses within a commercial or recreation boating center or water-dependent transportation center? (3.1) _____
16. Would the proposed project create any conflicts between commercial and recreational boating? (3.2) _____
17. Does the proposed project involve any boating activity that would have an impact on the aquatic environment or surrounding land and water uses? (3.3) _____
18. Is the action located in one of the designated Special Natural Waterfront Areas (SNWA): Long Island Sound- East River, Jamaica Bay, or Northwest Staten Island? (4 and 9.2) _____
19. Is the project site in or adjacent to a Significant Coastal Fish and Wildlife Habitat? (4.1) _____
20. Is the site located within or adjacent to a Recognized Ecological Complex: South Shore of Staten Island or Riverdale Natural Area District? (4.1and 9.2) _____
21. Would the action involve any activity in or near a tidal or freshwater wetland? (4.2) _____
22. Does the project site contain a rare ecological community or would the proposed project affect a vulnerable plant, fish, or wildlife species? (4.3) _____
23. Would the action have any effects on commercial or recreational use of fish resources? (4.4) _____
24. Would the proposed project in any way affect the water quality classification of nearby waters or be unable to be consistent with that classification? (5) _____
25. Would the action result in any direct or indirect discharges, including toxins, hazardous substances, or other pollutants, effluent, or waste, into any waterbody? (5.1) _____
26. Would the action result in the draining of stormwater runoff or sewer overflows into coastal waters? (5.1) _____
27. Will any activity associated with the project generate nonpoint source pollution? (5.2) _____
28. Would the action cause violations of the National or State air quality standards? (5.2) _____

Policy Questions cont'd**Yes No**

29. Would the action result in significant amounts of acid rain precursors (nitrates and sulfates)? (5.2C)

30. Will the project involve the excavation or placing of fill in or near navigable waters, marshes, estuaries, tidal marshes or other wetlands? (5.3)

31. Would the proposed action have any effects on surface or ground water supplies? (5.4)

32. Would the action result in any activities within a federally designated flood hazard area or state-designated erosion hazards area? (6)

33. Would the action result in any construction activities that would lead to erosion? (6)

34. Would the action involve construction or reconstruction of a flood or erosion control structure? (6.1)

35. Would the action involve any new or increased activity on or near any beach, dune, barrier island, or bluff? (6.1)

36. Does the proposed project involve use of public funds for flood prevention or erosion control? (6.2)

37. Would the proposed project affect a non-renewable source of sand ? (6.3)

38. Would the action result in shipping, handling, or storing of solid wastes, hazardous materials, or other pollutants? (7)

39. Would the action affect any sites that have been used as landfills? (7.1)

40. Would the action result in development of a site that may contain contamination or that has a history of underground fuel tanks, oil spills, or other form or petroleum product use or storage? (7.2)

41. Will the proposed activity result in any transport, storage, treatment, or disposal of solid wastes or hazardous materials, or the siting of a solid or hazardous waste facility? (7.3)

42. Would the action result in a reduction of existing or required access to or along coastal waters, public access areas, or public parks or open spaces? (8)

43. Will the proposed project affect or be located in, on, or adjacent to any federal, state, or city park or other land in public ownership protected for open space preservation? (8)

44. Would the action result in the provision of open space without provision for its maintenance? (8.1)

45. Would the action result in any development along the shoreline but NOT include new water-enhanced or water-dependent recreational space? (8.2)

46. Will the proposed project impede visual access to coastal lands, waters and open space? (8.3)

47. Does the proposed project involve publicly owned or acquired land that could accommodate waterfront open space or recreation? (8.4)

48. Does the project site involve lands or waters held in public trust by the state or city? (8.5)

49. Would the action affect natural or built resources that contribute to the scenic quality of a coastal area? (9)

50. Does the site currently include elements that degrade the area's scenic quality or block views to the water? (9.1)

Policy Questions cont'd

Yes No

51. Would the proposed action have a significant adverse impact on historic, archeological, or cultural resources? (10)

52. Will the proposed activity affect or be located in, on, or adjacent to an historic resource listed on the National or State Register of Historic Places, or designated as a landmark by the City of New York? (10)

D. CERTIFICATION

The applicant or agent must certify that the proposed activity is consistent with New York City's Waterfront Revitalization Program, pursuant to the New York State Coastal Management Program. If this certification cannot be made, the proposed activity shall not be undertaken. If the certification can be made, complete this section.

"The proposed activity complies with New York State's Coastal Management Program as expressed in New York City's approved Local Waterfront Revitalization Program, pursuant to New York State's Coastal Management Program, and will be conducted in a manner consistent with such program."

Applicant/Agent Name: _____

Address: _____

_____ Telephone _____

Applicant/Agent Signature: _____ Date: _____

Appendix L.3

Coastal Zone Consistency Assessments for the States of New Jersey and New York and for the City of New York

NOTE: The CZM Assessments are still marked as draft since they have not been officially submitted to the New Jersey Department of Environmental Protection (NJDEP), New York State Department of State – Division of Coastal Resources (NYSDOS – DCR), and the New York City Department of City Planning (NYCDCP) for their respective review.

COASTAL ZONE CONSISTENCY ASSESSMENTS FOR NEW JERSEY, NEW YORK, AND THE CITY OF NEW YORK

TABLE OF CONTENTS

1.0	Introduction.....	1
2.0	New York State Coastal Zone Management Program	3
3.0	New York City Waterfront Revitalization Program Policies.....	15
4.0	New Jersey Coastal Zone Management Policies.....	20
4.1	Subchapter - 3 - Special Areas.....	20
4.2	Subchapter 3a-Standards for Beach and Dune Activities	32
4.3	Subchapter 3b-Wetland Mitigation Proposals	32
4.4	Subchapter 3c-Impact Assessment for Endangered and Threatened Wildlife Species.....	32
4.5	Subchapter 4-General Water Areas.....	32
4.6	Subchapter 5-General Land Areas	33
4.7	Subchapter 6-General Location Rules	33
4.8	Subchapter 7-Use Rules.....	34
4.9	Subchapter 8-Resource Rules.....	37
5.0	Summary	41

1.0 Introduction

The Coastal Zone Management Act of 1972 (16 U.S.C. §§1451-1464) was enacted by Congress to balance the competing demands of growth and development with the need to protect coastal resources. Its stated purpose is to "preserve, protect, develop and, where possible, to restore or enhance, the resources of the nation's coastal zone..." The primary means of achieving this balance is through coastal zone management programs adopted by the states and designed to regulate land use activities that could affect coastal waters. The act offered incentives to encourage the coastal states and territories to exercise their full authority over coastal areas through development of coastal zone management programs, consistent with the minimum federal standards. The Coastal Zone Act Reauthorization Act Amendments of 1990 strengthened the act by requiring the state programs to focus more on controlling land use activities and the cumulative effect of activities in coastal zones.

Both New York (Executive Law §§910-921) and New Jersey (N.J.A.C. 7:7, 7:7E) have federally approved coastal zone programs administered through the Department of State and the Department of Environmental Protection, respectively. Pursuant to the federal Coastal Zone Management Act, both states have defined their coastal zone boundaries and the policies to be utilized to evaluate projects occurring within the designated zones. In 1981, New York State adopted the Waterfront Revitalization and Coastal Resources Act, creating the New York State Coastal Management Program (CMP). The CMP embodies 44 policy statements supportive of the act's intent to promote a balance between economic development and coastal resource preservation and optimization.

In New Jersey, the Waterfront Development Law (N.J.S.A. 12:5-3) and related requirements (N.J.A.C. 7:7-2.3) provide the authority for issuance of permits for, among other activities, the placement or construction of structures, pilings, or other obstructions in any tidal waterway. New Jersey's Rules on Coastal Zone Management are employed by the state's Land Use Regulation Program in the review of permit applications and coastal decision-making; they address issues of location, use, and resources. New Jersey's rules provide for a balancing between economic development and coastal resource protection, recognizing that coastal management involves explicit consideration of a broad range of concerns, in contrast to other resource management programs which have a more limited scope of concern.

At the local level, New York City's Waterfront Revitalization Program (WRP) was approved by New York State in 1982 and was revised in 2002. It contains 10 policies addressing local issues and guidelines for application of the state's 44 CMP policies in the New York City context. In 1992, New York City completed a long-range plan for its waterfront (Department of City Planning, New York City Comprehensive Waterfront Plan, Reclaiming the City's Edge). Among a number of local land use, or reach, studies performed for the waterfront plan, a study for Reach 21 (Arthur Kill North) included the Goethals Bridge area; one of its recommendations was to "support expanding the capacity of the Goethals Bridge to improve local and regional truck access" such that the "design should minimize disturbance of wetlands."

The City of Elizabeth has designated two waterfront "blight" areas (as defined by N.J.S.A. 40:55-21.2) and has prepared waterfront development plans for them. Both of these areas are north of the project's Primary Study Area. Projects and regulated activities proposed for the Elizabeth coastal area are reviewed in accordance with New Jersey's Rules on Coastal Zone Management, Land Use Regulation Program.

The proposed project is within the coastal zone boundaries of both New York and New Jersey. The following assessment identifies the coastal zone policies and evaluates the project's consistency with the applicable policies. The consistency evaluation is provided to enable New York, New York City and New Jersey to consider the effect of the project on their coastal zone resources.

Policies which do not apply to the proposed project are *italicized*. Policies which apply are **bolded**.

DRAFT

2.0 New York State Coastal Zone Management Program

Policy 1.

Restore, revitalize and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational and other compatible uses.

Construction of the proposed project would provide improved transportation access to Significant Maritime and Industrial Areas, such as the New York Container Terminal (NYCT) at Howland Hook, and other working waterfronts from the regional highway system that include Long Island, Brooklyn, Staten Island, New Jersey and the interior United States, and therefore would enhance the revitalization of the waterfront area. The proposed project is consistent with this policy.

Policy 2.

Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.

The proposed project would provide an expanded bridge crossing of coastal waters and would serve other water dependent uses and facilities along the waterfront. Therefore, the proposed project is consistent with this policy.

Policy 3.

Further develop the state's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of state public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.

Construction of the proposed project would improve highway access, and allow more efficient truck movement of goods to local marine terminals, such as the NYCT at Howland Hook. In addition, the Port Authority's proposed action would create opportunities to facilitate public transit connections between New Jersey and Staten Island that are not practicable on the existing bridge system. Therefore, the proposed project is consistent with this policy.

Policy 4.

Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.

The Primary Study Area in Staten Island does not contain a small harbor area; therefore, this policy does not apply.

Policy 5.

Encourage the location of development in areas where public services and facilities essential to such development are adequate.

Construction of the proposed project would not result directly in any new development in the area requiring additional public services or facilities. Therefore, this policy does not apply.

Policy 6.

Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.

Construction of the proposed project would not involve the siting of development activities at this location; therefore, this policy does not apply.

Policy 7.

Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats.

Goethals Bridge Pond was designated by the New York State Department of State as a Significant Coastal Fish and Wildlife Habitat and is located to the north of the Primary Study Area. Construction of the proposed project alternatives is not expected to have impacts on Goethals Bridge Pond.

Two separate stands of common persimmon (*Diospyros virginiana*), a New York threatened species, exist on the New York portion of the Primary Study Area (Section 4.14, Biotic Communities). All four proposed build alternatives do not include construction where these stands exist and therefore no impacts are anticipated to these trees as a result of the construction and operations of a new bridge.

The peregrine falcon, *Falco peregrinus*, is an endangered species in both New York and New Jersey, and has historically utilized the Primary Study Area for foraging, breeding, and nesting activities. Peregrine falcons have been observed in the Goethals Bridge region since 1990 and produced their first clutch in 1993. The falcons have nested on the Goethals Bridge superstructure and in a nest box on the bridge; however, they have not nested on the bridge in several years (Chris Nadareski, NYCDEP, pers. comm., 17 August 2006). Instead, the falcons nested on a tower on a nearby island until their nest was predated by a raccoon in 2002, resulting in abandonment of this nesting site. By 2004, the center of peregrine activity was the nesting box on the Arthur Kill railroad lift bridge, though nesting has not been successful there, and no activity has occurred since the reactivation of the bridge in 2007. Only one adult peregrine falcon was sighted at the Goethals Bridge in 2008, and no nesting occurred there in 2008 (C. Nadareski, NYCDEP, pers. comm. 9/11/08). Further coordination with the USFWS and NYCDEP on this issue would occur prior to project construction.

The pied-billed grebe, *Podilymbus podiceps*, is a New York threatened species that has been observed on the New York portion of the Primary Study Area (Section 4.14, Biotic Communities). Goethals bridge pond, outside of the Primary Study Area, is the most suitable foraging, breeding, and nesting, habitat for this species. No construction or operational activities are expected to impact the grebe or its preferred habitat as all proposed alternatives avoid impacts to Goethals Bridge pond.

The northern harrier, *Circus cyaneus*, is a New York state threatened species that has been observed foraging within the Primary Study Area. The northern harrier typically feeds on small mammals and birds within marsh community types existing within the Primary Study Area. Potential impacts to the northern harrier include the loss of foraging habitat from temporary and permanent structures. Any impacts to foraging habitat should be minimal as the four proposed alternatives would not impact a significant percentage of the existing wetland habitat.

Tidal and freshwater wetlands, and other vulnerable plant, fish and wildlife species and rare ecological communities would be protected to the greatest extent practicable. Impacts to wetlands due to activities such as the construction of temporary roads, staging areas, and a potential concrete factory are discussed in New York State coastal Zone Management Program Policy 44 in this document and Section 5.13, Biotic Communities. Mitigation for these impacts would be coordinated with the USACE and other regulatory agencies required in the NEPA process.

Policy 8.

Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.

Construction of both southern alternatives would result in the acquisition of one property with known contamination and one potentially contaminated property (Section 5.18, Contaminated Materials). Construction of both northern alternatives would result in the acquisition of one potentially contaminated property. Lead based paint may be present in the approach spans and the New Jersey east approach ramp. Further investigations would be conducted to confirm the presence of contaminants once an alternative is selected and project design has progressed to the point where areas to be disturbed are more specifically defined. If these investigations reveal the presence of contaminated materials, remedial measures would be implemented prior to and during construction. Accepted abatement measures and proper disposal measures based on test results would be employed in compliance with all regulatory requirements. The operational phase of the proposed project would not cause any additional areas to be disturbed and would therefore not result in impacts to contaminated materials. It is possible, however, that trucks transporting hazardous or contaminated materials using the new bridge could be involved in traffic accidents. Therefore, solid waste and hazardous substances, including petroleum products, would be handled in a manner that would not affect the coastal environment nor the safety and general welfare of the public during the construction phase of the project and is consistent with this policy. Coordination with the appropriate regulatory agencies will continue throughout the permitting phase of the project.

Policy 9.

Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources.

Construction of the proposed project would expand the recreational use of fish and wildlife resources. The pedestrian walkway would provide new opportunities for wildlife viewing. Access to recreational fishing would not be impacted by the construction of the proposed project. Therefore, the proposed project is consistent with this policy.

Policy 10.

Further develop commercial finfish, shellfish and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the state's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.

Construction of the proposed project would not affect commercial fishing. There is no commercial fishing in the Arthur Kill. Therefore, this policy does not apply.

Policy 11.

Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

Construction of the proposed project alternatives would locate bridge piers and construction and maintenance access roads in the floodplain of the Arthur Kill (Section 5.12, Floodplains). Because the Arthur Kill is a tidal water body, there should be no measurable erosion or flooding impacts since the associated fill is within a tidal water body. Widening of the roadways would result in a net increase in impervious surface and a consequent increase in stormwater runoff. Since stormwater from the proposed project would be discharged to a tidal waterbody, no increase in flooding as a result of increased stormwater runoff is anticipated. Furthermore, temporary and permanent erosion control measures would be specified for all construction activities, including temporary roadways and piers. Therefore, the project is consistent with this policy.

Policy 12.

Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.

The Primary Study Area does not contain beaches, dunes, barrier islands, or bluffs. Construction of the project would not involve other types of natural protective features noted under this policy. Thus, the policy does not apply.

Policy 13.

The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.

The construction or reconstruction of any necessary erosion protection structures would be designed using the best technology available to insure proper design, construction and maintenance. Soil Erosion protection measures would comply with the New York State Department of Environmental Conservation - New York State Standards and Specifications for Erosion and Sediment Control, August 2005.

Policy 14.

Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.

Construction of the proposed project would locate bridge piers and construction and maintenance access roads in the floodplain of the Arthur Kill. There should be no measurable impacts since the associated fill is within a tidal water body. Widening of the roadways at the ground level would result in a net increase in impervious surface and a consequent increase in storm water runoff. The percentage increase in runoff would be related to details of the design. The increase in runoff would be limited and possible indiscernible given the considerable extent of the wetlands in the Primary Study Area. Temporary and permanent erosion control measures would be specified for all construction activities, including construction of temporary roadways and

piers, and would comply with the New York State Department of Environmental Conservation - New York State Standards and Specifications for Erosion and Sediment Control, August 2005.

Policy 15.

Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.

Within the vicinity of the Primary Study Area, a variety of aquatic habitats have been identified including inter-tidal marshes, mudflats, Goethals Pond and Old Place Creek (Section 5.13, Biotic Communities). In-water excavation would be limited to the placement of bridge footings. Impacts to adjacent land associated with the placement of the bridge footings would be minimized by restricting work within water bodies to cofferdams and through implementation of a comprehensive Erosion Control Plan for the construction phase (Section 3.7 Construction Activities). Within this existing environment, dredging for the placement of bridge footings would not significantly interfere with natural coastal processes and shall not cause an increase in erosion. Therefore, the proposed project is consistent with this policy.

Policy 16.

Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long-term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.

The proposed project does not include erosion protective structures; therefore, this policy does not apply.

Policy 17.

Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.

Construction of the proposed project alternatives would locate bridge piers and construction and maintenance access roads in the floodplain of the Arthur Kill (Section 5.12 Floodplains). There should be no measurable impacts since the associated fill is within a tidal water body. Widening of the roadways at the ground level would result in a net increase in impervious surface and a consequent increase in storm water runoff. The percentage increase in runoff would be related to details of the design. The increase in runoff would be limited and possible indiscernible given the considerable extent of the wetlands in the Primary Study Area. Use of non-structural measures to minimize damage from flooding and erosion shall be employed whenever possible. The erosion control plan would comply with the New York State Department of Environmental Conservation - New York State Standards and Specifications for Erosion and Sediment Control, August 2005.

Policy 18.

To safeguard the vital economic, social and environmental interests of the state and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the state has established to protect valuable coastal resource areas.

Construction of the proposed project would promote economic interests in the region, which include the benefits of improved transportation (truck and auto) access between Staten Island and

New Jersey, as well as increased access to the NY/NJ Port facilities. The proposed project would promote a safer transportation route between Staten Island and New Jersey than the existing bridge. Furthermore, public waterfront access would be provided through the proposed pedestrian walkway. The proposed bridge would be designed to minimize environmental impacts to the extent possible. Therefore, the project would be consistent with this policy.

Policy 19.

Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities.

Construction of the proposed project would not preclude access to public water-related recreation resources and facilities should they be located along the Arthur Kill at some future point. The existing bridge provides access for a limited number of pedestrians, but is not open for public access, crossing from Staten Island to New Jersey allowing views of the waterfront. Improved public access to views of the Arthur Kill waterfront would be provided with the walkway/bikeway included on the proposed bridge. Therefore, the project would be consistent with this policy.

Policy 20.

Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided and it shall be provided in a manner compatible with adjoining uses.

Construction of the proposed project would not preclude public access to waterfront land in the project vicinity. Therefore, this policy does not apply.

Policy 21.

Water-dependent and water-enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related use along the coast.

The proposed bridge would include a walkway/bikeway, affording pedestrians and bicyclists water views from the bridge. Therefore, the proposed project would be consistent with this policy.

Policy 22.

Development, when located adjacent to the shore, will provide for water-related recreation, whenever such use is compatible with reasonably anticipated demand for such activities, and is compatible with the primary purpose of the development.

The proposed bridge would include a walkway/bikeway, which would be compatible with the transportation use of the bridge and provide the opportunity for water-related recreation in the form of water views from the bridge for pedestrians and bicyclists. Therefore, the proposed project would be consistent with this policy.

Policy 23.

Protect, enhance and restore structures, districts, areas or sites that are of significance in history, architecture, archeology or culture of the state, its communities, or the nation.

The proposed project would involve removal of the existing National Register-eligible Goethals Bridge. It would not require taking of any other historic buildings or structures; however, it would entail demolition and construction work immediately adjacent to portions of the historic

SIRR line and the historic CNJRR line. In compliance with Section 106 of NHPA, the Coast Guard and FHWA are participating in an ongoing consultation with the New York and New Jersey SHPOs regarding potential effects of the proposed project on historic properties. Measures to resolve (through avoidance, minimization or mitigation) any adverse effects on which the federal agencies, SHPOs and Advisory Council on Historic Preservation ultimately agree would be formalized through execution of a Memorandum of Agreement among these parties and the Agreement's subsequent implementation.

The unavoidable adverse effects of any of the build alternatives on the Goethals Bridge would be mitigated through recordation of the bridge to Level II standards of the Historic American Engineering Record. By means of a narrative descriptive and historic report, large-format photographs of the structure, and reproduction of selected original design drawings, information about the Goethals Bridge and its engineering and regional transportation significance would be preserved and made available to the public.

In order to avoid construction related effects to adjacent sections of the SIRR and the CNJ RR lines, a construction-protection plan would be developed in consultation with the SHPOs. Such a plan would follow the New York City Department of Buildings Technical Policy and Procedure Notice #10/88 (or an equivalent standard) regarding procedures for avoidance of damage to historic structures from adjacent construction. Therefore, the proposed project would be consistent with this policy.

Policy 24.

Prevent impairment of scenic resources of statewide significance.

There are no scenic resources of statewide significance present as defined in the Appendix to the NYC CMP. Therefore, this policy does not apply.

Policy 25.

Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.

Natural and man-made features, including Old Place Creek and tidal marsh, and the industrial NJ waterfront will remain, while the proposed project will facilitate public viewing access of these scenic features (Section 5.9, Visual Quality and Shadow Impacts).

Policy 26.

Conserve and protect agricultural lands in the state's coastal area.

The Primary Study Area is not located adjacent to agricultural lands; therefore, this policy does not apply.

Policy 27.

Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shoreline location.

Construction of the proposed project would not involve siting of an energy facility; therefore, this policy does not apply.

Policy 28.

Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.

Ice management practices may include the use of road salt. Any potential impacts to significant fish and wildlife and their habitats would be mitigated in coordination with the appropriate regulatory agencies. The Stormwater Management Plan would comply with the New York State Department of Environmental Conservation Stormwater Management Design Manual, August 2003 for water quality and quantity.

Policy 29.

Encourage the development of energy resources on the outer continental shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities.

Construction of the proposed project does not involve development of energy resources; therefore, this policy does not apply.

Policy 30.

Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.

Construction of the proposed project may require SPDES or NJPDES permits from New York and New Jersey, respectively. The Stormwater Management Plan would comply with the New York State Department of Environmental Conservation Stormwater Management Design Manual, August 2003 for water quality and quantity.

Policy 31.

State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.

The existing Goethals Bridge does not have stormwater detention basins. However, stormwater capacity will increase and detention basins would be designed to filter stormwater. The Stormwater Management Plan would comply with the New York State Department of Environmental Conservation Stormwater Management Design Manual, August 2003, for water quality and quantity.

Policy 32.

Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.

Construction of the proposed project would not involve sanitary waste systems; therefore, this policy does not apply.

Policy 33.

Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.

Stormwater detention basins would be constructed using Best Management Practices. The Stormwater Management Plan would comply with the New York State Department of Environmental Conservation Stormwater Management Design Manual, August 2003 for water quality and quantity.

Policy 34.

Discharge of waste materials into coastal waters from vessels subject to state jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.

Construction of the proposed project would not affect discharge from vessels into the Arthur Kill; therefore, this policy does not apply.

Policy 35.

Dredging and dredge spoil disposal in coastal waters will be undertaken in a manner that meets existing state dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.

Dredging would be limited to excavation necessary for the bridge footings, and any potential impacts would be minimized by restricting work within water bodies to cofferdams and through implementation of comprehensive stormwater management plans for the construction phase. Required permits would be coordinated with the US Army Corps of Engineers and NYSDEC. Disposal of dredged material would be in accordance with applicable state and Federal laws. Therefore, the project would be consistent with this policy.

Policy 36.

Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.

Construction of the proposed project would provide safer and more effective transportation facilities for the shipment of petroleum and other hazardous materials by truck. Construction of both southern alternatives would result in the acquisition of one property with known contamination and one potentially contaminated property (Section 5.18, Contaminated Materials). Construction of both northern alternatives would result in the acquisition of one potentially contaminated property. Lead based paint may be present in the approach spans and the New Jersey east approach ramp. Further investigations would be conducted to confirm the presence of contaminants once an alternative is selected and project design has progressed to the point where areas to be disturbed are more specifically defined. If these investigations reveal the presence of contaminated materials, remedial measures would be implemented prior to and during construction. Standard remediation measures exist for all of the substances likely to be encountered. Coordination with the appropriate regulatory agencies will continue throughout the permitting phase of the project.

The operational phase of the project would not cause any additional areas to be disturbed and would therefore not result in impacts to contaminated materials. It is possible, however, that trucks transporting hazardous or contaminated materials using the new bridge could be involved in traffic accidents. Therefore, solid waste and hazardous substances, including petroleum products, would be handled in a manner that would not affect the coastal environment nor the safety and general welfare of the public during the construction phase of the project and is consistent with this policy.

Policy 37.

Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.

Construction of the proposed project may include increased stormwater from paved areas entering the Arthur Kill and Old Place Creek, but would be treated in stormwater detention basins. Stormwater basins would be designed to meet NYSDEC standards. The Stormwater Management Plan would comply with the New York State Department of Environmental Conservation Stormwater Management Design Manual, August 2003, for water quality and quantity.

Policy 38.

The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.

The NYSDEC designated best usages for the Arthur Kill and Old Place Creek do not include potable water supply. Therefore, the proposed action would not impact any surface water sources of drinking water. Furthermore, the Stormwater Management Plan would comply with the New York State Department of Environmental Conservation Stormwater Management Design Manual, August 2003, for water quality and quantity.

Policy 39.

The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within the coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources.

Construction of the proposed project would result in the acquisition of land that may have either known contamination or potential contamination based on historical uses (Section 5.18, Contaminated Materials). New York is a delegated state to implement the requirements of the Federal Resource Conservation and Recovery Act (RCRA). RCRA was developed in order to ensure proper handling of hazardous waste from “cradle-to-grave”, i.e. from the point of generation, to storage, to transportation, and to final treatment, storage and disposal. The New York State Department of Environmental Conservation (NYSDEC) has promulgated regulations that are as strict, and in some cases are stricter, than the Federal RCRA regulations. The NYSDEC RCRA regulations are generally found on 6 NYCRR parts 370 through 376.

All waste generated from operations must be evaluated to determine if the waste meets the definition of and is classified as a hazardous waste based on the characteristics and listing of hazardous waste found in 6 NYCRR Part 371 Identification and Listing of Hazardous Wastes. must then determine and meet The applicable requirements to generators of hazardous waste must

be determined and met as promulgated in 6 NYCRR Part 372. Coordination with the appropriate regulatory agencies will continue throughout the permitting phase of the project.

Policy 40.

Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.

Construction of the proposed project would not affect any effluent discharge from generating and industrial facilities into the Arthur Kill. Therefore, this policy does not apply.

Policy 41.

Land use or development in the coastal area will not cause national or state air quality standards to be violated.

Slow-moving traffic on the existing Goethals Bridge induces relatively higher concentrations of various air pollutants (Section 4.20, Air Quality). The proposed project would facilitate smoother traffic flow and, therefore, reduce air pollutants. New York State is a delegated state to implement the requirements of the Federal Clean Air Act. Federal air pollution regulations are generally found in Subchapter C *Air Programs* in 40 CFR Parts 50-99. The New York State Department of Environmental Conservation (NYSDEC) has promulgated regulations for the prevention and control of air contamination and air pollution. These regulations are found in 6 NYCRR parts 200 through 240. Additionally, the New York City Department of Environmental Protection (NYCDEP) has local air permit regulations for sources operating in New York City.

The project proponent will evaluate all existing operations and future projects generating air emissions for regulatory applicability with the Federal Clean Air Act regulations, NYSDEC regulations, and local NYCDEP regulations. Permit applications and modifications will identify regulatory applicability to ensure compliance with National Ambient Air Quality Standards, New Source Performance Standards, New Source Review, and Prevention of Significant Deterioration. Operations generating air emissions will meet applicable regulations pertaining to obtaining proper permits (e.g. construction and operation of air contamination sources), administrative requirements (e.g. records, reports, permit updates/modifications and operations) and technical requirements (e.g. operations controls, permit emission limits, facility emission limits, monitoring requirements).

Policy 42.

Coastal management policies will be considered if the state reclassifies land areas pursuant to the prevention of significant deterioration regulations of the federal clean air act.

Construction of the proposed project would not affect state classifications of land areas; therefore, this policy does not apply.

Policy 43.

Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.

New York State is a delegated state to implement the requirements of the Federal Clean Air Act. Federal air pollution regulations are generally found in Subchapter C *Air Programs* in 40 CFR Parts 50-99. The New York State Department of Environmental Conservation (NYSDEC) has promulgated regulations for the prevention and control of air contamination and air pollution.

These regulations are found in 6 NYCRR parts 200 through 240. Additionally, the NYCDEP has local air permit regulations for sources operating in New York City.

The applicant will evaluate all existing operations and future projects generating air emissions for regulatory applicability with the Federal Clean Air Act regulations, NYSDEC regulations, and local NYCDEP regulations. Permit applications and modifications will identify regulatory applicability to ensure compliance with National Ambient Air Quality Standards, New Source Performance Standards, New Source Review, and Prevention of Significant Deterioration. Operations generating air emissions will meet applicable regulations pertaining to obtaining proper permits (e.g. construction and operation of air contamination sources), administrative requirements (e.g. records, reports, permit updates/modifications and operations) and technical requirements (e.g. operations controls, permit emission limits, facility emission limits, monitoring requirements).

Policy 44.

Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

Tidal and freshwater wetlands, and other vulnerable plant, fish and wildlife species and rare ecological communities would be protected to the greatest extent practicable. Potential impacts to regulated wetlands and existing restored wetlands are discussed in Section 5.13, Biotic Communities. Depending on the selected alignment alternative, impacts to wetlands in New York due to construction of access roads, staging areas, and a potential concrete factory would permanently impact between 4.57 and 5.45 acres of wetlands and between 0.20 and 0.67 acres of wetlands buffer due to fill. An additional 0.20 to 0.22 acres of wetlands would be temporarily impacted. Impacts would include shading impacts to tidal wetlands along Old Place Creek and filling. Impacts would be minimized to the greatest extent possible, and a mitigation plan will be developed to compensate for loss of wetland function and acreage. Upon removal of the existing Goethals Bridge, approximately 1.00 to 1.71 acres of access roads would be restored to salt marsh wetlands, depending on the alternative selected. Also, removal of the existing Goethals Bridge's piers and pier protection cells will result in the restoration of approximately 0.4 acres of salt marsh wetlands and subtidal habitat. Unavoidable impacts to wetlands would be minimized as much as possible and mitigated in coordination with USACE and other regulatory agencies required for the NEPA process. Therefore, the proposed project would be consistent with this policy.

3.0 New York City Waterfront Revitalization Program Policies

Policy 1

Support and facilitate commercial and residential redevelopment in areas well-suited to such development.

Construction of the proposed project may facilitate the as-of-right redevelopment of the vacant industrial GATX site currently zoned as M2-1 and M3-1 as well as accommodate improvements to the New York Container Terminal (NYCT) at Howland Hook (Section 4.4.5, Planned Future Development).

Policy 2

Support water-dependent and industrial uses in New York City coastal areas that are well suited to their continued operation.

The Plan for The Staten Island Waterfront (NYCDP 1994) states that, including Goethals Bridge, there are currently eight major truck routes that enter New York City; however, the current Goethals Bridge cannot accommodate the largest interstate trucks. Construction of the project would provide improved transportation access to Significant Maritime and Industrial Areas (SMIA), such as the NYCT at Howland Hook, and other working waterfronts from the regional highway system that includes Long Island, Brooklyn, Staten Island, New Jersey and the interior United States.

Proximity and access to truck transportation routes are criteria used to determine areas appropriate for working waterfront uses outside the SMIA's. Construction of the proposed project alternatives would also improve transportation access to other working waterfront areas to the regional highway system.

Construction of the project would also facilitate and support the potential of future intermodal freight transportation in the area, such as the recently re-activated Staten Island Railroad Freight Rail.

The proposed project would provide infrastructure improvements necessary to support SMIA's, other working waterfront areas and future intermodal transportation and is therefore consistent with this policy.

Policy 3

Promote use of New York City's waterways for commercial and recreational boating and water-dependent transportation centers.

The proposed project would include the demolition of the existing Goethals Bridge and the removal of its Staten Island main pier from the U.S. navigable waterway in the Arthur Kill. The proposed project alternatives would span over the Arthur Kill, allowing unobstructed use of the navigation channel for maritime vessels. In addition, the proposed project alternatives would maintain and provide adequate vertical navigation clearance for commercial maritime traffic.

Policy 4**Protect and restore the quality and function of ecological systems within the New York City coastal area.**

Goethals Bridge Pond was designated by the New York State Department of State as a Significant Coastal Fish and Wildlife Habitat and is located to the north of the Primary Study Area. Construction of the proposed project alternatives is not expected to have impacts on Goethals Bridge Pond.

The Harbor Herons Bird Conservation Area consists of a total of 111 acres and includes Goethals Bridge Pond, adjoining wetlands, and property along Old Place Creek. The mixture of productive tidal marsh, freshwater marsh, shallow water foraging habitats, and their proximity to suitable nesting habitat in the Arthur Kill is key to the importance of the area for nesting wading birds. While the islands in the Arthur Kill do not currently support nesting wading bird colonies, the presence of abundant and consistently available forage fish and invertebrates in the area is a significant resource for herons in the NY/NJ Harbor region. Shorebirds also use the mud flats extensively for foraging. Construction of the proposed project alternatives is not expected to have significant adverse impacts to the Harbor Herons Bird Conservation Area.

Two separate stands of the tree species, common persimmon (*Diospyros virginiana*), a New York threatened species, exist on the New York portion of the Primary Study Area (Section 4.14, Biotic Communities). All four proposed alignment alternatives do not include construction where these stands exist and therefore no impacts are anticipated to these trees as a result of the construction and operations of a new bridge.

The peregrine falcon, *Falco peregrinus*, is an endangered species in both New York and New Jersey, and has historically utilized the Primary Study Area for foraging, breeding, and nesting activities. Peregrine falcons have been observed in the Goethals Bridge region since 1990 and produced their first clutch in 1993. The falcons have nested on the Goethals Bridge superstructure and in a nest box on the bridge, however, they have not nested on the bridge in several years (Chris Nadeski, NYCDEP, pers. comm., 17 August 2006). Instead, the falcons nested on a tower on a nearby island until their nest was predated by a raccoon in 2002, resulting in abandonment of this nesting site. By 2004, the center of peregrine activity was the nesting box on the Arthur Kill railroad lift bridge, though nesting has not been successful there, and no activity has occurred since the reactivation of the bridge in 2007. Only one adult peregrine falcon was sighted at the Goethals Bridge in 2008, and no nesting occurred there (C. Nadeski, NYCDEP, pers. comm. 9/11/08). Further coordination with the USFWS and NYCDEP on this issue would occur prior to project construction.

The pied-billed grebe (*Podilymbus podiceps*) is a New York threatened species that has been observed on the New York portion of the Primary Study Area (Section 4.14, Biotic Communities). Goethals bridge pond, outside of the Primary Study Area, is the most suitable foraging, breeding, and nesting, habitat for this species. No construction or operational impacts are expected to influence the grebe or its preferred habitat as all proposed alternatives avoid impacts to Goethals Bridge pond.

The northern harrier (*Circus cyaneus*) is a New York State threatened species that has been observed foraging within the Primary Study Area. The northern harrier typically feeds on small mammals and birds within marsh community types existing within the Primary Study Area.

Potential impacts to the northern harrier include the loss of foraging habitat from temporary and permanent structures. Any impacts to foraging habitat should be minimal as the four proposed alternatives would not impact a significant percentage of the existing wetland communities. Impacts would be minimized to the greatest extent possible.

Tidal and freshwater wetlands, and other vulnerable plant, fish and wildlife species and rare ecological communities would be protected to the extent possible. Any mitigation would be coordinated with the USACE and other regulatory agencies involved in the NEPA process. Therefore, the proposed project would be consistent with this policy.

Policy 5

Protect and improve water quality in the New York City coastal area.

The existing Goethals Bridge does not have an associated detention basin where stormwater is treated. The proposed project will increase stormwater capacity and the detention basin will treat and filter stormwater. Stormwater detention basins would be constructed using Best Management Practices. The Stormwater Management Plan would comply with the New York State Department of Environmental Conservation Stormwater Management Design Manual, August 2003 for water quality and quantity.

Policy 6

Minimize loss of life, structures and natural resources caused by flooding and erosion.

Construction of the proposed project alternatives would locate bridge piers and construction and maintenance access roads in the floodplain of the Arthur Kill (Section 5.12, Floodplains). There should be no measurable impacts since the associated fill is within a tidal water body. Widening of the roadways at the ground level would result in a net increase in impervious surface and a consequent increase in storm water runoff. The percentage increase in runoff would be related to details of the design. The increase in runoff would be limited and possibly indiscernible given the considerable extent of the wetlands in the Primary Study Area. Furthermore, temporary and permanent erosion control measures would be specified for all construction activities, including temporary roadways and piers. Therefore, the project is consistent with this policy.

Policy 7

Minimize environmental degradation from solid waste and hazardous substances.

Construction of both southern alternatives would result in the acquisition of one property with known contamination and one potentially contaminated property (Section 5.18, Contaminated Materials). Construction of both northern alternatives would result in the acquisition of one potentially contaminated property. Lead based paint may be present in the approach spans and the New Jersey east approach ramp. Further investigations would be conducted to confirm the presence of contaminants once an alternative is selected and project design has progressed to the point where areas to be disturbed are more specifically defined. If these investigations reveal the presence of contaminated materials, measures would be implemented prior to and during construction. Standard remediation measures exist for all of the substances likely to be encountered. The operational phase of the project would not cause any additional areas to be disturbed and would therefore not result in impacts to contaminated materials. It is possible, however, that trucks transporting hazardous or contaminated materials using the new bridge could be involved in traffic accidents. Therefore, solid waste and hazardous substances, including petroleum products, would be handled in a manner that would not affect the coastal environment nor the safety and general welfare of the public during the construction phase of the project and

would be consistent with this policy. Coordination with the appropriate regulatory agencies will continue throughout the permitting phase of the project.

Policy 8

Provide public access to and along New York City's coastal waters.

The wetlands surrounding the Goethals Bridge on Staten Island are City-owned property, held by the New York City Department of Small Business Services (NYCDSBS). There is no public access to the NYCDSBS property in the Goethals Bridge area.

At present, there is no public access to Old Place Creek. The New York State Department of Environmental Conservation (NYSDEC) recently acquired an undeveloped 11-acre parcel of land between Old Place Creek and the Goethals Bridge tollbooths. NYSDEC plans to develop public access to the site, including trails, fishing access, hand launch boat access, and bird watching. The proposed project would not affect this planned public access.

NYSDEC's Harbor Herons Bird Conservation Area consists of a total of 111 acres and includes Goethals Bridge Pond, adjoining wetlands, and property along Old Place Creek. Parking and viewing areas are provided at Goethals Bridge Pond. The proposed project would not affect this public access.

The construction of the proposed project includes a pedestrian walkway that would provide public access to the bridge that did not exist before. The pedestrian walkway would be located on the north side of the bridge to provide public visual access to the waterway and metropolitan skyline.

Policy 9

Protect scenic resources that contribute to the visual quality of the New York City coastal area

The approach piers and steel truss work of the existing Goethals Bridge blocks views of the water and adjacent wetlands. While the span length, general alignment, and vertical clearance above the water of the proposed bridge would be similar to the existing Goethals Bridge, the use of cables to support the bridge deck would result in a visually lighter and more transparent structure, dramatically opening up views of the Arthur Kill and beyond. This view would be afforded to motorists, bicyclists and pedestrians as well. The latter two groups, not currently accommodated on the existing structure, would be permitted on a 10-foot-wide dedicated lane located on the north (westbound) side of the new bridge.

The proposed project would remain consistent with the commercial and transportation character of the visual environment, relating to other nearby structures, including the adjacent Arthur Kill Lift Bridge and NYCT cranes, ships, and containers along the Howland Hook waterfront, as well as the South Front Street industries whose wharves, tall cranes and tanks occupy the foreground. The proposed project would maintain the visual quality of the New York City coastal area and will not substantially change visual quality in the long term. See Section 5.9, Visual Quality.

Policy 10**Protect, preserve and enhance resources significant to the historical, archaeological, and cultural legacy of New York City coastal area**

The proposed project would involve removal of the existing National Register-eligible Goethals Bridge, and construction work immediately adjacent to portions of the historic SIRR line and the historic CNJRR line (Section 5.7, Historic Resources). In compliance with Section 106 of NHPA, the Coast Guard and FHWA are participating in an ongoing consultation with the New York SHPOs regarding potential effects of the proposed project on historic properties. Measures to resolve (through avoidance, minimization or mitigation) any adverse effects on which the federal agencies, SHPOs and Advisory Council on Historic Preservation ultimately agree would be formalized through execution of a Memorandum of Agreement among these parties and the Agreement's subsequent implementation.

The unavoidable adverse effects of any of the build alternatives on the Goethals Bridge would be mitigated through recordation of the bridge to Level II standards of the Historic American Engineering Record. By means of a narrative descriptive and historic report, large-format photographs of the structure, and reproduction of selected original design drawings, information about the Goethals Bridge and its engineering and regional transportation significance would be preserved and made available to the public.

In order to avoid construction related effects to adjacent sections of the Staten Island Rail Road (SIRR) and the CNJ Railroad (CNJRR) lines, a construction-protection plan would be developed in consultation with the SHPOs. Such a plan would follow the New York City Department of Buildings Technical Policy and Procedure Notice #10/88 (or an equivalent standard) regarding procedures for avoidance of damage to historic structures from adjacent construction.

The Phase I archaeological survey indicated that eight prehistoric sites and six historic archaeological sites have been previously documented within a one-mile radius of the New York section of the archaeological area of potential effect (Section 5.8, Archaeological Resources). Few scattered prehistoric materials were discovered within the New York section, but do not represent significant prehistoric archaeological deposits within the archaeological area of potential effect and are recommended not eligible for the NYRHP/NRHP. Therefore, the proposed project is consistent with this policy.

4.0 New Jersey Coastal Zone Management Policies

4.1 Subchapter - 3 - Special Areas

7:7E-3.2 Shellfish Habitat.

This policy generally prohibits new dredging in shellfish habitat.

A shellfish habitat is described in NJAC 7:7E-3.2 as, "...an estuarine bay or river bottom which has a history of production for hard clams (*Mercenaria mercenaria*), soft clams (*Mya arenaria*), eastern oysters (*Crassostrea virginica*), bay scallops (*Argopecten irradians*), or blue mussels (*Mytilus edulis*), or otherwise listed below in this section." The Primary Study Area of the Arthur Kill does not contain shellfish habitat; therefore, this policy is not applicable.

7:7E-3.3 Surf Clam Areas.

This policy prohibits development that would destroy or contaminate surf clam areas.

Surf Clam Area is defined in NJAC 7:7E-3.3 as, "...coastal waters which can be demonstrated to support significant commercially harvestable quantities of surf clams (*Spisula solidissima*), or areas important for recruitment of surf clam stocks." The Primary Study Area of the Arthur Kill is not a surf clam area; therefore, this policy is not applicable.

7:7E-3.4 Prime Fishing Areas.

This policy prohibits submarine mining in prime fishing areas.

Prime Fishing Areas are described in NJAC 7:7E-3.4 as, "...fishing areas include tidal water areas and water's edge areas which have a demonstrable history of supporting a significant local quantity of recreational or commercial fishing activity." The Primary Study Area of the Arthur Kill is not a prime fishing area; therefore, this policy is not applicable.

7:7E-3.5 Finfish Migratory Pathways.

This policy prohibits development such as dams or dikes which would create physical barriers to migratory fish. Development which would lower water quality so as to interfere with fish movement is also prohibited.

Finfish Migratory Pathways are defined in NJAC 7:7E-3.5 as, "...waterways (rivers, streams, creeks, bays and inlets) which can be determined to serve as passageways for diadromous fish to or from seasonal spawning areas, including juvenile anadromous fish which migrate in autumn and those listed by H.E. Zich (1977) "New Jersey Anadromous Fish Inventory" NJDEP Miscellaneous Report No. 41, and including those portions of the Hudson and Delaware Rivers within the coastal zone boundary." Potential impacts to fish habitat are discussed in 5.13, Biotic Communities and in the Essential Fish Habitat Assessment. The habitat and environmental conditions of the Primary Study Area in the Arthur Kill are marginal to several EFH-designated species. A new bridge crossing the Arthur Kill would result in localized effects on the fish and benthic community related to construction activities and the presence of new bridge support structures. These new structures would affect the nearshore zone on both sides of the main channel of the Arthur Kill, but would not influence the tidal flow in the channel thus the effects would be limited to a small area. Following bridge construction activities, the aquatic community, including EFH-designated and non-designated species as well as forage species that

may have been temporarily displaced or removed, is expected to return to pre-construction conditions.

7:7E-3.6 Submerged Vegetation Habitat.

This policy prohibits or restricts dredging so as to protect water areas that support submerged vegetation.

Submerged vegetation is defined in NJAC 7:7E-3.6 as, “...(An) area consists of water areas supporting or documented as previously supporting rooted, submerged vascular plants such as widgeon grass (*Ruppia maritima*), sago pondweed (*Potamogeton pectinatus*), horned pondweed (*Zannichellia palustris*) and eelgrass (*Zostera marina*).” The Primary Study Area on the New Jersey side of the Arthur Kill does not support submerged vegetation; therefore, this policy is not applicable.

7:7E-3.7 Navigation Channels.

This policy prohibits construction that would extend into a navigation channel and restricts dredging in navigation channels.

Navigation Channels are described in NJAC 7:7E-3.7 as, “...tidal water areas including the Atlantic Ocean, inlets, bays, rivers and tidal guts with sufficient depth to provide safe navigation.” The proposed project would span the Arthur Kill, a Federally maintained navigation channel. Potential impacts to navigation are discussed in Section 5.15, Navigation and Airspace. No piers would be located in the navigation channel. Construction of the main span structure and piers would be staged from land and from barges in the Arthur Kill. Barges used for construction would be located outside of the navigation channel to avoid interference with vessels navigating the Arthur Kill. The location of barge staging areas and times of channel closures would be closely coordinated with the USCG to avoid impacts to navigation.

7:7E-3.8 Canals.

In canals used for navigation, uses that would interfere with boat traffic are prohibited.

Canals are defined in NJAC 7:7E-3.8 as, “...navigation channels for boat traffic through land areas which are created by cutting and dredging or other human construction technique sometimes enlarging existing natural surface water channels.” The Arthur Kill is not a canal; therefore, this policy is not applicable.

7:7E-3.9 Inlets.

This policy prohibits filling and discourages submerged infrastructure.

Inlets are described in NJAC 7:7E-3.9 as, “...natural channels through barrier islands allowing movement of fresh and salt water between the ocean and the back bay system. Inlets naturally have delta fans of sediment seaward and landward, deposited by the ebb and flow of the tide.” The Arthur Kill is not an inlet; therefore, this policy is not applicable.

7:7E-3.10 Marina Moorings.

This policy prohibits non-water dependent development in marina mooring areas.

NJAC 7:7E-3.10 described Marina Moorings as, “...areas of water that provide mooring, docking and boat maneuvering room as well as access to land and navigational channels for five or more recreational boats.” Construction of the proposed project would not involve any marina mooring areas; therefore, this policy does not apply.

7:7E-3.11 Ports.

This policy prohibits uses which would interfere with port uses.

Ports are defined in NJAC 7:7E-3.11 as, "...water areas having, or lying immediately adjacent to, concentrations of shoreside marine terminals and transfer facilities for the movement of waterborne cargo (including fluids), and including facilities for loading, unloading and temporary storage." The Arthur Kill separates Staten Island from New Jersey and serves the ports of Perth Amboy, Elizabeth, and Tottenville, as well as many large factories, oil refineries, and storage facilities. Construction of the proposed project would contribute to the economic viability of the region by providing more efficient and safer truck and vehicular access between Staten Island and New Jersey. The existing Goethals Bridge does not have adequate lane widths for the larger trucks now used to move freight in the region. A new crossing, with the resulting increased capacity, would contribute to the success of port activity by moving goods more efficiently, consistent with this policy. Potential impacts to navigation are discussed in Section 5.15 Navigation and Airspace. Construction of the main span structure and piers would be staged from barges in the Arthur Kill. These barges would be located outside of the navigation channel to avoid interference with vessels navigating the Arthur Kill. The location of barge staging areas and times of channel closures would be closely coordinated with the USCG to avoid impacts to navigation. In addition, the replacement bridge would not interfere with the movement of waterborne cargo. Therefore, the proposed project is consistent with this policy.

7:7E-3.12 Submerged Infrastructure Routes.

This policy prohibits any activity which would increase the likelihood of infrastructure damage or interfere with maintenance operations.

NJAC 7:7E-3.12 states, "a submerged infrastructure route is the corridor in which a pipe or cable runs on or below a submerged land surface." A number of utilities are located under the Goethals Bridge. Potential impacts to infrastructure are discussed in Section 5.17 Infrastructure. Depending upon which alternative is selected; several local roads would be relocated or closed permanently. This would result in the relocation or removal of any aerial or underground utilities within the affected right-of-way, none of which would constitute a significant impact. Under any of the alternatives, there would be a marginal increase in the consumption of electricity due to increased and improved lighting, electronic signage and security cameras, however, this impact is not considered to be significant. No impacts to any railroads are anticipated.

7:7E-3.13 Shipwrecks and Artificial Reefs.

This policy protects special areas with shipwrecks and artificial reefs.

According to NJAC 7:7E-3.13, "The shipwreck and artificial reef habitats special area includes all permanently submerged or abandoned remains of vessels, and other structures including but not limited to, artificial reefs, anchors, quarry rocks or lost cargo, which serve as a special marine habitat or are fragile historic and cultural resources." The Primary Study Area on the New Jersey side of the Arthur Kill does not contain any known shipwrecks or artificial reefs; therefore, this policy is not applicable.

7:7E-3.14 Wet Borrow Pits.

This policy protects wet borrow pits as potential wildlife habitat but allows for filling with certain restrictions.

A wet borrow pit is defined in NJAC 7:7E-3.14 as, "... scattered artificially created lakes that are the results of surface mining for coastal minerals extending below groundwater level to create a permanently flooded depression. This includes, but is not limited to, flooded sand, gravel and clay pits, and stone quarries." The Primary Study Area of the Arthur Kill does contain any known wet borrow pits; therefore, this policy is not applicable.

7:7E-3.15 Intertidal and Subtidal Shallows.

This policy discourages disturbance of shallows as they provide critical habitat area.

Intertidal and Subtidal Shallows are defined in NJAC 7:7E-3.15 as, "...all permanently or temporarily submerged areas from the spring high water line to a depth of four feet below mean low water." Construction of piers in the Cory warehouse boat slip may constitute disturbance of intertidal and subtidal shallows. Impacts would be minimized to the extent possible and coordinated with the USACE and other regulatory agencies involved in the NEPA process. Therefore, the proposed project would be consistent with this policy. Mitigation would be provided to compensate for any unavoidable impacts.

7:7E-3.16 Dunes.

This policy protects and preserves ocean and bayfront dunes.

A dune is defined in NJAC 7:7E-3.16 as, "...a wind or wave deposited or man-made formation of sand (mound or ridge), that lies generally parallel to, and landward of, the beach and the foot of the most inland dune slope. "Dune" includes the foredune, secondary or tertiary dune ridges and mounds, and all landward dune ridges and mounds, as well as man-made dunes, where they exist...". The Primary Study Area of the Arthur Kill does not contain any dunes; therefore, this policy is not applicable.

7:7E-3.17 Overwash Areas.

This policy restricts development in overwash areas due to their sensitive nature.

An overwash area is defined in NJAC 7:7E-3.17 as, "...an area subject to accumulation of sediment, usually sand, that is deposited landward of the beach or dune by the rush of water over the crest of the beach berm, a dune or a structure." The Primary Study Area on the New Jersey side of the Arthur Kill does not have any overwash areas; therefore, this policy is not applicable.

7:7E-3.18 Coastal High Hazard Areas.

This policy restricts development in coastal high hazard areas.

Coastal High Hazard Areas are defined in NJAC 7:7E-3.18 as, "...flood prone areas subject to high velocity waters (V zones) as delineated on the Flood Insurance Rate Maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA), and areas within 25 feet of oceanfront shore protection structures, which are subject to wave run-up and overtopping." The Primary Study Area on the New Jersey side of the Arthur Kill is not a coastal high hazard area; therefore, this policy is not applicable.

7:7E-3.19 Erosion Hazard Areas.

This policy prohibits development under most circumstances to protect public safety.

Erosion Hazard Areas are defined in NJAC 7:7E-3.19 as, "...shoreline areas that are eroding and/or have a history of erosion, causing them to be highly susceptible to further erosion, and damage from storms. The Primary Study Area on the New Jersey side of the Arthur Kill is not an erosion hazard area; therefore, this policy is not applicable.

7:7E-3.20 Barrier Island Corridor.

This policy restricts new development on the barrier islands in order to protect them.

Barrier Island Corridor is defined in NJAC 7:7E-3.20 as, "...the interior portions of oceanfront barrier islands, spits and peninsulas. Along the New Jersey Coast, headlands are located between Monmouth Beach, Monmouth County and Pt. Pleasant Beach, Ocean County." The Primary Study Area on the New Jersey side of the Arthur Kill is not a barrier island corridor; therefore, this policy is not applicable.

7:7E-3.21 Bay Islands.

This policy restricts development on the bay islands because, in most cases, they are adjacent to areas with high environmental sensitivity.

Bay Islands are defined in NJAC 7:7E-3.21 as, "...islands or filled areas surrounded by tidal waters, wetlands, beaches or dunes, lying between the mainland and barrier island." The Primary Study Area on the New Jersey side of the Arthur Kill does not have bay islands; therefore, this policy is not applicable.

7:7E-3.22 Beaches.

This policy promotes public access to New Jersey's beaches.

Beaches are defined in NJAC 7:7E-3.22 as, "...gently sloping areas of sand or other unconsolidated material, found on all tidal shorelines, including ocean, bay and river shorelines...". There are no beaches in the Primary Study Area on the New Jersey side of the Arthur Kill; therefore, this policy does not apply.

7:7E-3.23 Filled Water's Edge.

This policy seeks to promote water dependent uses at the waterfront. Areas of fill at the water's edge are less environmentally sensitive than undisturbed water's edge areas.

Filled Water's Edge is defined in NJAC 7:7E-3.23 as, "...existing filled areas lying between wetlands or water areas, and either the upland limit of fill, or the first paved public road or railroad landward of the adjacent water area, whichever is closer to the water. Some existing or former dredged material disposal sites and excavation fill areas are filled water's edge..." The proposed would not affect the filled water's edge; therefore, this policy is not applicable.

7:7E-3.24 Existing Lagoon Edge.

This policy restricts development at lagoon edges because of potential water quality problems.

Existing lagoon edges are defined in NJAC 7:7E-3.24 as, "...existing man-made land areas resulting from the dredging and filling of wetlands, bay bottom and other estuarine water areas for the purpose of creating waterfront lots along lagoons for residential and commercial

development.” The Primary Study Area on the New Jersey side of the Arthur Kill does not have existing lagoon edges; therefore, this policy is not applicable.

7:7E-3.25 Flood Hazard Areas.

This policy is designed to restrict development in flood hazard areas and ensure that the waterfront is not pre-empted by uses which could function equally well at inland locations.

NJAC 7:7E-3.25 defines flood hazard areas as, “...the floodway and flood fringe area around rivers, creeks and streams as delineated by the Department under the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.); and areas defined or delineated as an A or a V zone by the Federal Emergency Management Agency (FEMA).” Construction of the proposed project would locate bridge piers in the floodplain of the Arthur Kill. However, permanent roadways above the footings would be located above the 500-year flood level. Furthermore, the proximity of the Arthur Kill would facilitate drainage of flood water in the context of a tidal cycle. The construction of temporary roadways within the 500-year floodplain may be included. There should be no measurable impacts since the associated fill is within a tidal water body. Widening of the roadways at the ground level would result in a net increase in impervious surface and a consequent increase in storm water runoff. The percentage increase in runoff would be related to details of the design. However, the increase in runoff would be indiscernible because the receiving waterbody is tidal. The Stormwater Management Plan would comply with Phase II New Jersey Pollutant Discharge Elimination System Stormwater Regulation Program Rules (N.J.A.C. 7:14A), February 2004 for water quality, and Stormwater Management Rules (N.J.A.C. 7:8) for quantity.

7:7E-3.26 (Reserved)

7:7E-3.27 Wetlands.

This policy requires mitigation if wetlands are destroyed or disturbed. Wetlands are the most environmentally valuable land areas within the coastal zone.

Wetlands are defined in NJAC 7:7E-3.27 as, “...an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.” Small freshwater wetlands (less than 1 acre) are located in roadside depressions on both sides of the NJ Turnpike, and have been influenced by human development and invasion by non-native plant species. Depending on the selected alignment alternative, the proposed project would permanently impact between 0.04 and 0.62 acres of wetlands in New Jersey and up to 0.07 additional acres of wetlands would be temporarily impacted. Unavoidable impacts to wetlands would be minimized as much as possible and mitigated in coordination with USACE and other regulatory agencies required for the NEPA process. Therefore, the proposed project would be consistent with this policy.

7:7E-3.28 Wetland Buffers.

This policy restricts development on buffer areas in order to protect wetlands.

NJAC 7:7E-3.28 defines wetlands buffers as an, “...area of land adjacent to a wetland which minimizes adverse impacts on the wetlands or serves as an integral component of the wetlands ecosystem.” Depending on the selected alignment alternative, the proposed project would permanently impact between 0.12 and 0.15 acres of wetland buffer areas in New Jersey. Unavoidable impacts to wetland buffers would be minimized as much as possible and mitigated

in coordination with USACE and other regulatory agencies required for the NEPA process. Therefore, the proposed project would be consistent with this policy.

7:7E-3.29 (Reserved)

7:7E-3.30 (Reserved)

7:7E-3.31 Coastal Bluffs.

This policy restricts development on coastal bluffs, which serve to prevent storm damage and flooding.

Coastal bluffs are defined in NJAC 7:7E-3.31 as, "...a steep slope (greater than 15 percent) of consolidated (rock) or unconsolidated (sand, gravel) sediment which is adjacent to the shoreline or which is demonstrably associated with shoreline processes." There are no coastal bluffs in the Primary Study Area; therefore, this policy is not applicable.

7:7E-3.32 Intermittent Stream Corridors.

This policy restricts uses in the stream corridors which are very susceptible to surface and subsurface disturbance.

An intermittent stream corridor is defined in NJAC 7:7E-3.32 as, "...areas including and surrounding surface water drainage channels in which there is not a permanent flow of water and which contain an area or areas with a seasonal high water table equal to or less than one foot. The inland extent of these corridors is either the inland limit of soils with a seasonal high water table depth equal to, or less than one foot, or a disturbance of 25 feet measured from the top of the channel banks, whichever is greater..." The Primary Study Area does not contain intermittent stream corridors; therefore, this policy is not applicable.

7:7E-3.33 Farmland Conservation Areas.

This policy seeks to preserve large parcels of land used for farming.

Farmland conservation areas are defined in NJAC 7:7E-3.33 as "...any contiguous area of 20 acres or more (in single or multiple tracts of single or multiple ownership) with soils in the Capability Classes I, II and III or special soils for blueberries and cranberries as mapped by the United States Department of Agriculture, Soil Conservation Service, in National Cooperative Soil Surveys, which are actively farmed, or suitable for farming, unless it can be demonstrated by the applicant that new or continued use of the site for farming or farm dependent purposes is not economically feasible." There are no farmland conservation areas in the Primary Study Area for the proposed project; therefore, this policy is not applicable.

7:7E-3.34 Steep Slopes.

This policy seeks to preserve steep slopes by restricting development in such areas. Steep slopes help to control erosion and reduce flooding.

Steep slopes are defined in NJAC 7:7E-3.34 as, "...land areas with slopes greater than 15 percent, which are not adjacent to the shoreline and therefore not coastal bluffs (see N.J.A.C. 7:7E-3.31). Steep slopes include natural swales and ravines, as well as manmade areas, such as those created through mining for sand, gravel, or fill, or road grading." The Primary Study Area on the New Jersey side of the Arthur Kill does not have steep slopes; therefore, this policy is not applicable.

7:7E-3.35 Dry Borrow Pits

This policy seeks to encourage clean surface water discharge to dry borrow pits.

A dry borrow pit is defined in NJAC 7:7E-3.35 as, "...excavations for the purpose of extracting coastal minerals which have not extended below the groundwater level. This includes, but is not limited to, dry sand, gravel and clay pits, and stone quarries." There are no dry borrow pits in the Primary Study Area on the New Jersey side of the Arthur Kill; therefore, this policy does not apply.

7:7E-3.36 Historic and Archeological Resources.

This policy seeks to preserve historic and archeological resources by requiring surveys and other protective measures.

Historic and archaeological resources are defined in NJAC 7:7E- 3.36 as, "historic and archaeological resources include objects, structures, shipwrecks, buildings, neighborhoods, districts, and man-made or man-modified features of the landscape and seascape, including historic and prehistoric archaeological sites, which either are on or are eligible for inclusion on the New Jersey or National Register of Historic Places." The Goethals Bridge has been determined eligible for listing on the State and National Register for Historic Places by the New Jersey and New York SHPOs. Potential impacts to historic and archeological resources are discussed in Sections 5.7, Historic Resources and 5.8, Archeological Resources.

The proposed project would involve removal of the existing National Register-eligible Goethals Bridge. It would not require taking of any other historic buildings or structures; however, it would entail demolition and construction work immediately adjacent to portions of the historic SIRR line and the historic CNJ RR line. In compliance with Section 106 of NHPA, the Coast Guard and FHWA are participating in an ongoing consultation with the New Jersey and New York SHPOs regarding potential effects of the proposed project on historic properties. Measures to resolve (through avoidance, minimization or mitigation) any adverse effects on which the federal agencies, SHPOs and Advisory Council on Historic Preservation ultimately agree would be formalized through execution of a Memorandum of Agreement among these parties and the Agreement's subsequent implementation.

The unavoidable adverse effects of any of the build alternatives on the Goethals Bridge would be mitigated through recordation of the bridge to Level II standards of the Historic American Engineering Record. By means of a narrative descriptive and historic report, large-format photographs of the structure, and reproduction of selected original design drawings, information about the Goethals Bridge and its engineering and regional transportation significance would be preserved and made available to the public.

In order to avoid construction related effects to adjacent sections of the SIRR and the CNJ RR lines, a construction-protection plan would be developed in consultation with the SHPOs. Such a plan would follow the New York City Department of Buildings Technical Policy and Procedure Notice #10/88 (or an equivalent standard) regarding procedures for avoidance of damage to historic structures from adjacent construction.

The results of the background research and field reconnaissance stages of the Phase I archaeological survey indicated that no archaeological sites had been previously documented within the New Jersey section of the archaeological area of potential effect. Additionally, subsurface testing within New Jersey section of the archaeological area of potential effect did not identify any prehistoric archaeological resources. No significant or recommended NJRHP/NRHP

eligible historic archaeological deposits were recovered from within the New Jersey section of the archaeological area of potential effect. Therefore, it is concluded that the New Jersey section of the archaeological area of potential effect does not contain any significant or recommended NJRHP/NRHP eligible prehistoric or historic archaeological resources that would be impacted by any of the alternative plans of the proposed project.

7:7E-3.37 Specimen Trees.

This policy seeks to protect specimen trees.

Specimen trees are defined in NJAC 7:7E-3.37 as, "...the largest known individual trees of each species in New Jersey. In addition, large trees approaching the diameter of the known largest tree shall be considered specimen trees. Individual trees with a circumference equal to or greater than 85 percent of the circumference of the record tree, as measured 4.5 feet above the ground surface, for a particular species shall be considered a specimen tree. The Primary Study Area for the proposed project does not contain specimen trees; therefore, this policy is not applicable.

**7:7E-3.38 Endangered or Threatened Wildlife or Vegetation Species Habitats.
This policy restricts development in habitat areas in order to protect them.**

As defined in NJAC 7:7E-3.38, "endangered or threatened wildlife or plant species habitats are areas known to be inhabited on a seasonal or permanent basis by or to be critical at any stage in the life cycle of any wildlife or plant identified as "endangered" or "threatened" species on official Federal or State lists of endangered or threatened species, or under active consideration for State or Federal listing." State-listed endangered or threatened wildlife species that have been identified within the Primary Study Area include the peregrine falcon (NY and NJ), pied-billed grebe (NY) and the northern harrier (NY) (Section 4.14.3.3, Threatened and Endangered Species).

The peregrine falcon, an endangered species in both New York and New Jersey has historically utilized the Primary Study Area for foraging, breeding, and nesting activities. The falcons have nested on the Goethals Bridge superstructure and in a nest box on the bridge; however, they have not nested on the bridge in several years (Chris Nadareski, NYCDEP, pers. comm., 8/17/06). By 2004, the center of peregrine activity was the nesting box on the Arthur Kill railroad lift bridge outside of the Primary Study Area, though nesting has not been successful there, and no activity has occurred since the reactivation of the bridge in 2007. Only one adult peregrine falcon was sighted at the Goethals Bridge in 2008, but no nesting occurred there (C. Nadareski, NYCDEP, pers. comm. 9/11/08). As the peregrine falcon is not currently nesting on the existing Goethals Bridge, construction impacts would be minimal and should not differ between alternatives. Therefore, the proposed project would be consistent with this policy.

7:7E-3.39 Critical Wildlife Habitats.

This policy discourages development that would adversely affect critical habitat.

Critical wildlife habitats are defined in NJAC 7:7E-3.39 as, "...specific areas known to serve an essential role in maintaining wildlife, particularly in wintering, breeding, and migrating.

The Primary Study Area provides critical habitat for the peregrine falcon (*Falco peregrinus*), a state endangered species, which has utilized the Goethals Bridge structure for nesting in the past. The peregrine falcons, however, have not nested on the bridge in several years (Chris Nadareski, NYCDEP, pers. comm., 8/17/06). By 2004, the center of peregrine activity was the nesting box on the Arthur Kill railroad lift bridge outside of the Primary Study Area, though nesting has not

been successful there, and no activity has occurred since the reactivation of the bridge in 2007. Only one adult peregrine falcon was sighted at the Goethals Bridge in 2008, but no nesting occurred there (C. Nadareski, NYCDEP, pers. comm. 9/11/08). Further coordination with the USFWS on this issue would occur prior to project construction.

Freshwater wetlands, and other vulnerable plant, fish and wildlife species and rare ecological communities would be protected to the greatest extent practicable. Impacts to wetlands due to construction activities are discussed in Section 5.13, Wetlands. Mitigation for these impacts would be coordinated with the USACE and other regulatory agencies required in the NEPA process.

7:7E-3.40 Public Open Space.

This policy encourages new public open spaces and discourages development that might adversely affect existing public open space.

According to NJAC 7:7E-3.40, Public Open Space is defined as, “land areas owned or maintained by State, Federal, county and municipal agencies or private groups (such as conservation organizations and homeowner's associations) and used for or dedicated to conservation of natural resources, public recreation, visual or physical public access or, wildlife protection or management. Public open space also includes, but is not limited to, State Forests, State Parks, and State Fish and Wildlife Management Areas, lands held by the New Jersey Natural Lands Trust (N.J.S.A. 13:1B-15.119 et seq.), lands held by the New Jersey Water Supply Authority (N.J.S.A. 58:1B-1 et seq.) and designated Natural Areas (N.J.S.A. 13:1B-15.12a et seq.) within DEP-owned and managed lands.” Construction of the proposed project would not affect any public open space; therefore, this policy is not applicable.

7:7E-3.41 Special Hazard Areas.

This policy discourages development in hazard areas due to potential dangers. Mitigation such as height limits near airports, and monitoring and clean-up of hazardous materials is required.

As defined in NJAC 7:7E-3.41, “special hazard areas include areas with a known actual or potential hazard to public health, safety, and welfare, or to public or private property, such as the navigable air space around airports and seaplane landing areas, potential evacuation zones and areas where hazardous substances as defined at N.J.S.A. 58:10-23.11b-k are used or disposed, including adjacent areas and areas of hazardous material contamination.” Discussion of potential impacts due to hazardous materials is discussed in Section 5.18, Contaminated Materials.

Construction of the southern alternatives would result in the acquisition of vacant land that was formerly the site of both Byron Heffernan & Co. and later, National Solvents, Inc. This property is located between the existing bridge approach and the Staten Island Railroad trestle. In addition, the Existing Alignment South Replacement Bridge alternative would acquire a portion of Joseph Cory Warehouse and its associated boat slip, while the New Alignment South Replacement Bridge alternative would acquire the entire property. This property is the location of the former Bowker Fertilizer Company. Because of the previous manufacturing operations at these two properties ceased prior to the implementation of any form of environmental regulation, it is possible that contaminants remain in the soil. The Existing Alignment South Replacement Bridge alternative would also acquire five residential buildings and one commercial building. Lead-based paint and asbestos containing materials may be present due to the age of these buildings.

Construction of the northern alternatives would result in the acquisition of two potentially contaminated properties and a portion of one known contaminated property. The one known contaminated property is the former Borne Chemical Co. The sites potentially responsible parties have prepared a Remedial Investigation and Risk Assessment for the site. A Remedial Action Workplan is being developed for the site as well. According to NJDEP this is not a complex remediation and the Borne site should be remediated before the construction of any replacement bridge (Section 5.18, Contaminated Materials). The Existing Alignment North Replacement Bridge alternative will also require the acquisition of five residential buildings and once commercial building. Due to the age of these buildings, it is possible that each could contain quantities of lead based painting and Asbestos Containing Materials. Further investigations would be conducted to confirm the presence of contaminants once an alternative is selected and project design has progressed to the point where areas to be disturbed are more specifically defined. Coordination with the appropriate regulatory agencies will continue throughout the permitting phase of the project.

The height of the proposed bridge alternatives will be determined through consultation and coordination with the Federal Aviation Administration (FAA) and the Newark Liberty International Airport.

7:7E-3.42 Excluded Federal Lands.

Federal lands are beyond the jurisdiction of the New Jersey Coastal Zone. New Jersey has the authority to review activities on Federal lands if there may be spillover impacts on New Jersey's Coastal Zone.

NJAC 7:7E-3.42 defines excluded federal lands as, "...those lands, the use of which is, by law, subject solely to the discretion of or held in trust by the Federal Government, its officers or agents." There are no excluded federal lands in the Primary Study Area; therefore, this policy is not applicable.

7:7E-3.43 Special Urban Areas

This policy seeks to promote waterfront development that would benefit certain municipalities that receive state aid.

NJAC 7:7E-3.42 defines Special Urban Areas as, "...those municipalities defined in urban aid legislation (N.J.S.A. 52:27D-178) qualified to receive State aid to enable them to maintain and upgrade municipal services and offset local property taxes." The Primary Study Area for the Goethals Bridge is located in Elizabeth, which qualifies as a special urban area. Construction of the proposed project would provide indirect economic benefits to the City of Elizabeth because of improved truck and vehicular access between Staten Island and New Jersey. During the actual construction period, additional economic benefits would be derived from the project in the form of additional employment and wages spent locally.

7:7E-3.44 Pinelands National Reserve and Pinelands Protection Area.

This policy allows for the Pinelands Commission to serve as the reviewing agency for actions within the Pinelands National Reserve.

According to NJAC 7:7E-3.44, the Pinelands National Reserve and Pinelands Protection area, "includes those lands and water areas defined in the National Parks and Recreation Act of 1978, Section 502 (P.L. 95-625), an approximate 1,000,000 acre area ranging from Monmouth County in the north, south to Cape May County and from Gloucester and Camden County on the west to the barrier islands of Island Beach State Park and Brigantine Island along the Atlantic Ocean on

the east...” The proposed project is not located within the Pinelands; therefore, this policy is not applicable.

7:7E-3.45 Hackensack Meadowlands District.

This policy allows for the Hackensack Meadowlands Development Commission to serve as the reviewing agency for actions within the Hackensack Meadowlands District.

The Hackensack Meadowlands District is defined in NJAC 7:7E-3.45 as, “...a 19,730 acre area of water, coastal wetlands and associated uplands designated for management by a State-level agency known as the New Jersey Meadowlands Commission, by the Hackensack Meadowlands Reclamation and Development Act of 1968 (N.J.S.A. 13:17-1 et seq.).” The proposed project is not located within the Hackensack Meadowlands District; therefore, this policy is not applicable.

7:7E-3.46 Wild and Scenic River Corridors.

This policy recognizes the outstanding value of certain rivers in New Jersey by restricting development to compatible uses.

According to NJAC 7:7e-3.46, Wild and Scenic River Corridors, “...are all rivers designated into the National Wild and Scenic Rivers System and any rivers or segments thereof being studied for possible designation into that system pursuant to the National Wild and Scenic Rivers Act (16U.S.C. 1271-1278).” The proposed project is not located within a wild and scenic river corridor; therefore, this policy is not applicable.

7:7E-3.47 Geodetic Control Reference Marks.

This policy discourages disturbance of geodetic control reference marks.

Geodetic control reference marks are defined in NJAC 7:7e-3.47 as, “... traverse stations and benchmarks established or used by the New Jersey Geodetic Control Survey pursuant to P.L. 1934, c.116.” There are no known Geodetic Control Reference Marks within the Primary Study Area on the New Jersey side of the proposed project; therefore, this policy is not applicable.

7:7E-3.48 Hudson River Waterfront Area.

This policy restricts development along the Hudson River Waterfront and requires development, maintenance, and management of a section of the Hudson Waterfront Walkway coincident with the shoreline of the development property.

The Hudson River Waterfront Area is defined in NJAC 7:7e-3.48 as the Hudson River that, “...extends from the George Washington Bridge in Fort Lee, Bergen County to the Bayonne Bridge in Bayonne, Hudson County, inclusive of all land within the municipalities of Bayonne, Jersey City, Hoboken, Weehawken, West New York, Guttenberg, North Bergen, Edgewater and Fort Lee subject to the Waterfront Development Law. The proposed project is not located within the Hudson River Waterfront Area; therefore, this policy is not applicable.

7:7E-3.49 Atlantic City

This policy restricts casino hotel development to designated areas and all development over existing piers while public access is encouraged.

The proposed project is not located within the municipal boundary of the City of Atlantic City; therefore, this policy does not apply.

4.2 Subchapter 3a-Standards for Beach and Dune Activities

These standards apply to routine beach maintenance, emergency post-storm beach restoration, dune creation and maintenance, and construction of boardwalks.

The proposed project is not located within a beach or dune area; therefore, these standards are not applicable.

4.3 Subchapter 3b-Wetland Mitigation Proposals

This section details the requirements of a wetland mitigation proposal.

Unavoidable impacts to wetlands would be mitigated in coordination with the appropriate regulatory agencies. Therefore the proposed project would be consistent with this policy.

4.4 Subchapter 3c-Impact Assessment for Endangered and Threatened Wildlife Species.

This section details the performance and reporting standards for impact assessments for endangered and threatened wildlife species.

The Primary Study Area provides critical habitat for the peregrine falcon (*Falco peregrinus*), a New York state endangered species. Peregrine falcons have historically utilized the Primary Study Area for foraging, breeding, and nesting activities. The falcons have nested on the Goethals Bridge superstructure and in a nest box on the bridge; however, they have not nested on the bridge in several years (Chris Nadareski, NYCDEP, pers. comm., 8/17/06). By 2004, the center of peregrine activity was the nesting box on the Arthur Kill railroad lift bridge outside of the Primary Study Area, though nesting has not been successful there, and no activity has occurred since the bridge was reactivated in 2007. Only one adult peregrine falcon was sighted at the Goethals Bridge in 2008, but no nesting occurred there (C. Nadareski, NYCDEP, pers. comm. 9/11/08). As the peregrine falcon is not currently nesting on the existing Goethals Bridge, construction impacts would be minimal and should not differ between alternatives. Therefore, the proposed project would be consistent with this policy. Further coordination with the USFWS on this issue would occur prior to project construction.

4.5 Subchapter 4-General Water Areas

This section defines water areas.

For purposes of definition, the Arthur Kill is considered to be a tidal gut; it is a waterway connection between two estuarine bodies of water.

7:7E-4.2 Acceptability Conditions for Uses.

This section sets standards of acceptability conditions for certain uses. The relevant standards are as follows:

- **New Dredging**
- **Dredged Material Disposal**
- **Bridges**

Excavation would be required for placement of piers to support the bridge structure. Disposal of any excavated materials would be in compliance with appropriate Federal, state, and local regulations. In regard to bridge standards, the demonstrated need for the project is discussed in Section 2.0, Purpose and Need. Pedestrian and bicycle access would be improved with the project as the existing public access on the Goethals Bridge would be replaced by the proposed walkway/bikeway on the new bridge. Fishing catwalks and platforms are not provided because they are not practical. Therefore, the proposed project would be consistent with these policies.

4.6 Subchapter 5-General Land Areas

The proposed project is a linear development; therefore, this subchapter does not apply.

4.7 Subchapter 6-General Location Rules**7:7E-6.1 Rule on Location of Linear Development**

This rule sets conditions for acceptability of linear development.

Project alternatives have been chosen so as to have the least impacts to environmentally sensitive areas. (See Section 3.0, Alternatives).

7:7E-6.2 Basic Location Rule.

This rule states that NJDEP may reject or conditionally approve a project for safety, protection of certain property, or preservation of the environment.

The proposed project is consistent under the location rule.

7:7E-6.3 Secondary Impacts.

This rule sets the requirements for the secondary impact analysis.

The Proposed Project consists of the replacement and demolition of the existing Goethals Bridge. Replacement of the existing bridge is not expected to result in induced development, as no new surface roads or highway access points would be created in New Jersey or New York. Secondary impacts are discussed in Section 5.24 Indirect and Cumulative Impacts. It is unlikely that the Proposed Project would result in additional development in New Jersey apart from that which is already underway or planned, nor is the Proposed Project likely to substantially accelerate or affect the rate at which planned developments are completed. Development of some undeveloped or vacant land parcels in proximity to the Goethals Bridge could occur sooner in response to the proposed bridge improvements. However, it is assumed that this development would occur with or without the Proposed Project. Therefore, the proposed project would be consistent with the secondary impacts policies.

Mitigation of potential environmental impacts resulting from other development projects would remain with each individual project in accordance with applicable federal, state and local laws, regulations and ordinances.

4.8 Subchapter 7-Use Rules

7:7E-7.2 Housing Use Rules.

These rules set standards for housing construction in the coastal area.

The proposed project does not involve housing construction; therefore, this policy is not applicable.

7:7E-7.3 Resort Recreational Use.

These rules set standards for resort and recreational uses in the coastal area.

The proposed project does not involve resort recreational uses; therefore, this policy is not applicable.

7:7E-7.3A Marina Development.

These rules set standards for marina design, construction and operation in the coastal area.

The proposed project does not involve marina development; therefore, this policy is not applicable.

7:7E-7.4 Energy Use Rule.

These rules set standards for energy facilities in the coastal area.

Energy facilities are defined in 7:7E-7.4 as to, "...include facilities, plants or operations for the production, conversion, exploration, development, distribution, extraction, processing, or storage of energy or fossil fuels. Energy facilities also include onshore support bases and marine terminals. Energy facilities do not include operations conducted by a retail dealer, such as a gas station, which is considered a commercial development. The proposed project does not involve energy uses; therefore, this policy is not applicable.

7:7E-7.5 Transportation Use Rules.

These rules set standards for roads in the coastal area.

Construction of the proposed project is discussed in terms of standards for new road construction.

- i. Section 2.0, discusses the purpose and need for the project, and the Alternatives are discussed in Section 3.0.
- ii. A walkway/bikeway component is included in the project alternatives. Adjacent land uses at the waterfront include heavy industrial sites, both vacant and in use, and sensitive wetlands on the New York side.
- iii. Catwalks and parking access are not included in the project alternatives because of the project location.
- iv. Public transit rights-of-way and facilities were considered during the screening analysis of alternatives. (See Section 3.0, Alternatives)
- v. Visual and physical access to the Arthur Kill would be maintained. (See Section 5.9, Visual Quality.)

- vi. It is unlikely that construction of the project alternatives would result in induced development that would conflict with coastal rules.

Standards relevant to public transportation and parking facilities are not applicable to the proposed project.

7:7E-7.6 Public Facility Use Rule.

These rules set standards for public facilities in the coastal area.

Public Facilities are defined in NJAC 7:7E-7.6 to, "...include a broad range of public works for production, transfer, transmission, and recovery of water, sewerage and other utilities. The presence of an adequate infrastructure makes possible future development and responds to the needs created by present development." The proposed project will not include solid waste or wastewater treatment facilities. Therefore, the policy is not applicable.

7:7E-7.7 Industry Use Rule.

These rules set standards for new industrial users in the coastal area.

Industry uses are defined in NJAC 7:7E-7.7 as, "...uses that involve industrial processing, manufacturing, storage or distribution activities. These uses include, but are not limited to, electric power production, food and food by-product processing, paper production, agri-chemical production, chemical processes, storage facilities, metallurgical processes, mining and excavation processes, and processes using mineral products." Construction of the proposed project does not involve siting of industrial uses; therefore, this policy is not applicable.

7:7E-7.8 Mining Use Rule.

These rules set standards for mining in the coastal area.

Mining uses are defined in NJAC 7:7E-7.8 as, "(n)ew or expanded mining operations on land, and directly related development, for the extraction and/or processing of construction sand, gravel, ilmenite, glauconite, and other minerals...". Construction of the proposed project does not involve mining; therefore, this policy is not applicable.

7:7E-7.9 Port Use Rules.

These rules set standards for port uses and port-related development. The standards are designed to ensure that port facilities retain their economic vitality.

Port uses are defined in NJAC 7:7E-7.9 as, "...concentrations of shoreside marine terminals and transfer facilities for the movement of waterborne cargo (including fluids), and including facilities for loading, unloading and temporary storage."

- a. Construction of the proposed project would not interfere with the movement of waterborne cargo. The proposed project would provide economic benefits to the region, and existing port activities, by facilitating truck and vehicular access between Staten Island and New Jersey.
- b. Construction of the proposed project does not involve direct development of new or expanded port development; therefore, these policies are not applicable.

Therefore, the proposed project would be consistent with this policy.

7:7E-7.10 Commercial Facility Use Rules.

These rules set standards for new commercial facilities such as hotels, and other retail services in the coastal zone.

Construction of the proposed project does not involve commercial facilities; therefore, this policy is not applicable.

7:7E-7.11 Coastal Engineering.

These rules set standards to protect the shoreline, maintain dunes, and provide beach nourishment. Standards applying to structural shore protection are included.

Coastal Engineering is defined in NJAC 7:7E-7.11 to include, “a variety of structural and non-structural measures to manage water areas and the shoreline for natural effects of erosion, storms, and sediment and sand movement. Beach nourishment, sand fences, pedestrian control on dunes, stabilization of dunes, dune restoration projects, dredged material disposal and the construction of retaining structures such as bulkheads, gabions, revetments and seawalls are all examples of coastal engineering.” The proposed action would be a bridge crossing of a water body and would require direct access to this body of water. Thus, the proposed action is a water dependent use. The proposed project is located within a New Jersey port. The coastal engineering use rules do not apply to water dependent uses within existing ports, therefore this policy does not apply.

7:7E-7.12 Dredged Material Disposal on Land.

These rules set standards for disposal of dredged materials.

Materials excavated from the Arthur Kill during construction would be disposed in accordance with all applicable Federal, state, and local regulations. Therefore, the proposed project would be consistent with this policy.

7:7E-7.13 National Defense Facility Use Rule.

These rules set standards for the location of defense facilities in the coastal zone.

NJAC 7:7E-7.13 defines a National Defense Facility as, “...any building, group of buildings, marine terminal, or land area owned or operated by a defense agency (Army, Navy, Air Force, Marines, Coast Guard) and used for training, research, material support, or any other defense-related use. Construction of the proposed project does not involve a defense facility; therefore, this policy is not applicable.

7:7E-7.14 High Rise Structures.

These rules set standards for high rise structures in the coastal zone.

High Rise Structures are defined in 7:7E-7.14 as, “...structures which are more than six stories or more than 60 feet in height as measured from existing preconstruction ground level.” The Proposed Project’s cable-stayed bridge design would include bridge towers approximately 272 feet high, which would meet the definition of a High Rise Structure. Visual impacts from the Proposed Project are evaluated in Section 5.9 Visual Quality and Shadow Impacts.

Under 7:7E-4.13 (b), bridges are conditionally acceptable provided: 1) There is a demonstrated need that cannot be satisfied by existing facilities; 2) Pedestrian and bicycle use is provided for unless it is demonstrated to be inappropriate; and 3) Fishing catwalks and platforms are provided to the maximum extent practicable. The Proposed Project will meet the first two of these criteria, but fishing catwalks/platforms are not practical for bridge security and other reasons.

The proposed project consists of building a cable-stayed bridge near or on the alignment of the existing Goethals Bridge, which would be demolished. While the span length, general alignment, and vertical clearance above the water of the proposed bridge would be similar to the existing Goethals Bridge, the use of cables to support the bridge deck would result in a visually lighter and more transparent structure than the denser steel truss work of the Goethals Bridge. The steel truss work of the existing bridge limits visibility, while the proposed cable-stayed bridge design would dramatically open up views of the Arthur Kill and beyond. This view would be afforded to motorists, bicyclists and pedestrians as well. The latter two groups, not currently accommodated on the existing structure, would be permitted on a 10-foot-wide dedicated lane located on the north (westbound) side of the new bridge.

The proposed bridge itself would be compatible with the commercial and transportation character of the visual environment, relating to other nearby structures, including the adjacent Arthur Kill Lift Bridge and NYCT cranes, ships, and containers along the Howland Hook waterfront, as well as the South Front Street industries whose wharves, tall cranes and tanks occupy the foreground. Therefore the Proposed Project is consistent with the high rise structures policy.

4.9 Subchapter 8-Resource Rules

7:7E-8.2 Marine Fish and Fisheries.

These rules set standards of acceptability so as to cause minimal feasible interference with marine fish.

Marine fisheries are defined in NJAC 7:7E-8.2 to mean, “1. One or more stocks of marine fish which can be treated as a unit for the purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and 2. The catching, taking or harvesting of marine fish.” Potential impacts to fish habitat are discussed in 5.13, Biotic Communities and in the Essential Fish Habitat Assessment (Appendix --). The habitat and environmental conditions of the Primary Study Area in the Arthur Kill are marginal to several EFH-designated species in the area. A new bridge crossing the Arthur Kill would result in localized effects on the fish and benthic community related to construction activities and the presence of new bridge support structures. These new structures would affect the nearshore zone on both sides of the main channel of the Arthur Kill, but would not influence the tidal flow in the channel thus the effects would be limited to a small area. Following bridge construction activities, the aquatic community, including EFH-designated and non-designated species as well as forage species that may have been temporarily displaced or removed, is expected to return to pre-construction conditions.

7:7E-8.3 (Reserved)

7:7E-8.4 Water Quality.

These rules set standards for coastal development so as to limit effects on water quality.

The Stormwater Management Plan would comply with Phase II New Jersey Pollutant Discharge Elimination System Stormwater Regulation Program Rules (N.J.A.C. 7:14A), February 2004 for water quality, and Stormwater Management Rules (N.J.A.C. 7:8) for quantity. Therefore, the proposed project would be consistent with this policy.

7:7E-8.5 Surface Water Use.

These rules set standards for coastal development so as to limit effects on surface water.

Surface water is defined in 7:7E-8.5 as, "...Surface water is water in lakes, ponds, streams, rivers, bogs, wetlands, bays, and ocean that is visible on land. The proposed project is not anticipated to demand surface water and, therefore, will not exceed the capacity. The proposed project may cause some alteration of flow patterns in the Arthur Kill. The Stormwater Management Plan would comply with Phase II New Jersey Pollutant Discharge Elimination System Stormwater Regulation Program Rules (N.J.A.C. 7:14A), February 2004 for water quality, and Stormwater Management Rules (N.J.A.C. 7:8) for quantity.

7:7E-8.6 Groundwater Use.

These rules set standards for coastal development so as to limit effects on groundwater supplies.

Groundwater is defined in NJAC 7:7E-8.6 as, "...all water within the soil and subsurface strata that is not at the surface of the land. It includes water that is within the earth that supplies wells and springs." The proposed project is not anticipated to demand groundwater withdrawal or use, alone and in conjunction with other groundwater diversions proposed or existing in the region. Furthermore, the Stormwater Management Plan would comply with Phase II New Jersey Pollutant Discharge Elimination System Stormwater Regulation Program Rules (N.J.A.C. 7:14A), February 2004 for water quality, and Stormwater Management Rules (N.J.A.C. 7:8) for quantity.

7:7E-8.7 Stormwater Management.

These rules set standards for coastal development so as to limit effects of stormwater runoff.

The Stormwater Management Plan would comply with Phase II New Jersey Pollutant Discharge Elimination System Stormwater Regulation Program Rules (N.J.A.C. 7:14A), February 2004 for water quality, and Stormwater Management Rules (N.J.A.C. 7:8) for quantity.

7:7E-8.8 Vegetation.

These rules set standards for coastal development so as to protect vegetation.

Vegetation is defined in NJAC 7:7E-8.8 as, "...the plant life or total plant cover that is found on a specific area, whether indigenous or introduced by humans." Vegetation is discussed in Section 5.13, Biotic Communities. Temporary impacts to vegetation in the New Jersey portion of the project area would include the effects of pier footing construction, staging areas for equipment, and construction access routes. While the habitat in these areas would be altered as a result of construction, it would not be permanently lost. Following construction, these areas would be replanted and the existing wildlife habitat would be expected to return to some extent. Permanent impacts to vegetation in New Jersey would include the presence of pier footings and permanent access roads to the bridge piers and towers. However, the areas of impact for the four alternatives represent a small portion of the vegetation and habitat within the Primary Study Area and are not likely to have adverse impacts on the ecological communities. No protected plant species have been identified in the New Jersey portion of the project area. Therefore, the proposed project would be consistent with this policy.

7:7E-8.9 (Reserved)

7:7E-8.10 Air Quality.

These rules set standards for coastal development with requirements that projects meet applicable air quality standards.

The protection of air quality is described in NJAC 7:7E-8.10 as, "...protection from air contaminants that injure human health, welfare or property, and the attainment and maintenance of State and Federal air quality goals and the prevention of degradation of current levels of air quality. As presented in Section 5.21, Air Quality, no potential impacts to air quality are being anticipated for the proposed project. Therefore, the proposed project would be consistent with this policy.

7:7E-8.11 Public Access to the Waterfront.

This rule requires that coastal development adjacent to the waterfront provide perpendicular and linear access to the waterfront to the extent practicable, including both visual and physical access.

Public access to the waterfront is defined in NJAC 7:7E-8.11 as, "...the ability of all members of the community at large to pass physically and visually to, from and along the ocean shore and other waterfronts." Construction of the proposed project would not preclude public access to the waterfront as the walkway/bikeway on the proposed bridge would provide the opportunity of water views from the bridge for pedestrians and bicyclists is to be included. Therefore, the proposed project would be consistent with this policy.

7:7E-8.12 Scenic Resources and Design.

This rule sets standards for new coastal development be visually compatible with its surroundings.

According to NJAC 7:7E-8.12, "scenic resources include the views of the natural and/or built landscape." The proposed project would be compatible within the industrial setting in the area.

7:7E-8.13 Buffers and Compatibility of Uses.

This rule sets standards for adequate buffers between uses found to be not compatible.

According to NJAC 7:7E-8.13, "buffers are natural or man-made areas, structures, or objects that serve to separate distinct uses or areas. Compatibility of uses is the ability for uses to exist together without aesthetic or functional conflicts." The proposed project would provide regional connectivity between industrial areas in New Jersey and Staten Island and would therefore not create incompatible uses. Therefore, the proposed project would be consistent with this policy.

7:7E-8.14 Traffic.

This rule sets standards for coastal development to not disturb traffic systems. Mitigation may be required if certain thresholds are exceeded.

According to NJAC 7:7E-8.14, "traffic is the movement of vehicles, pedestrians or ships along a route. Coastal development shall be designed, located and operated in a manner to cause the least possible disturbance to traffic systems." The proposed project is a transportation facility. Analysis of potential impacts to traffic and transportation are discussed in Section 5.20, Traffic and Transportation. The proposed project would be designed and operated in a manner to cause the least possible disturbance to traffic systems practical. Any potential impacts to traffic will be mitigated in coordination New Jersey Department of Transportation and other appropriate agencies.

7:7E-8.15 through 8.20 (Reserved)

7:7E-8.21 *Subsurface Sewage Disposal Systems.*

These rules set standards for subsurface sewage disposal systems in the coastal zone.

NJAC 7:7E-8.21 defines Subsurface Sewage Disposal System as, "...a system for disposal of sanitary sewage into the ground which is designed and constructed to treat sanitary sewage in a manner that would retain most of the settleable solids in a septic tank and to discharge the liquid effluent to a disposal field." Construction of the proposed project would not include sewage disposal; therefore, this policy is not applicable.

5.0 Summary

As the Proposed Project is within the coastal zone boundaries of both New York and New Jersey, it will be required to address New York City, New York State and New Jersey State policies to certify compliance with each coastal zone management program. Based on this evaluation of applicable policies, the proposed Goethals Bridge replacement project (including both of the Southern and Northern Alternatives being considered) would be consistent with the respective coastal zone management programs for each state and with the City of New York. The Proposed Project would be consistent with the 29 applicable policies of the New York State Coastal Zone Management Program, and all ten of the policies of the New York City Waterfront Revitalization Program. The Proposed Project would also be consistent with the 31 applicable policies of the New Jersey Coastal Management Program.

The information required to address the state coastal zone and local waterfront policies was developed during preparation of the EIS and will subsequently be compiled and submitted into the appropriate documents for future permit applications. In turn, these assessments will enable NYSDOS, NJDEP and NYCDCP to consider the effects of the Proposed Project with their coastal zone resources before making their consistency determinations.