

# N.Y.S. COASTAL MANAGEMENT PROGRAM: CONSISTENCY REVIEW

Presentation for Village of Mamaroneck, 5/22/13

# Overview:

## Program Need

- ❑ Concentration of population and development activity in coastal /waterfront areas
- ❑ Limited coastal/waterfront areas
- ❑ Jurisdictional issues
- ❑ Narrow agency focus
- ❑ Lack of coordination- all levels of government

# Overview:

## Primary Program Goals



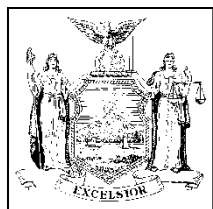
- Balance protection of natural and cultural resources with economic development within the coastal zone.
- Coordinate decision-making at all levels of government.

# Overview:

## Tools



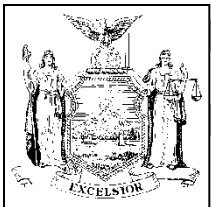
- Establishing of enforceable coastal policies focused on revitalizing, promoting, and protecting New York's communities and waterfronts
- Developing Local Waterfront Revitalization Programs and Harbor Management Plans
- Implementing coastal policies through consistency review



# Coastal Policies



- ▣ Water-dependent Development
- ▣ Fish and Wildlife
- ▣ Flooding and Erosion
- ▣ General Safeguards
- ▣ Public Access
- ▣ Recreation
- ▣ Historic and Scenic Resources
- ▣ Agricultural Lands
- ▣ Energy and Ice Management
- ▣ Air and Water Resources
- ▣ Wetlands



# Consistency:

## Policy-based Regulatory Review

- Integrates broader range of concerns than standards-based review
- Qualitative (not quantitative)
- Incorporates standards-based decisions of other agencies



# Federal Consistency



- Federal regulations at 15 CFR 930 establish a framework for review of all proposed federal activities that are within or would effect a state's designated federally approved coastal area.
  - ▣ "Federal activity" refers to funding, permitting, rule making or direct actions undertaken by a federal agency
- Based upon an analysis of the effects of a proposed activity on the enforceable policies of the CMP, the Department either concurs with or objects to the proposed activity.
- Federal regulations prohibit a federal agency from authorizing, funding, or directly undertaking an activity if the Department objects.

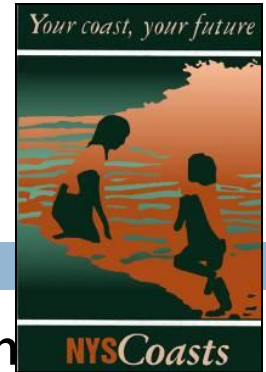
# State Consistency



- New York State's requirements to assure that actions of State agencies are consistent with policies for the State's coastal areas and inland waterways are contained in
  - ▣ Article 42 of the State Executive Law,
  - ▣ Department of State regulations in 19 NYCRR Part 600,
  - ▣ State Environmental Quality Review Act (SEQRA) regulations in 6 NYCRR Part 617.
- State agency actions that are not consistent with State coastal policies or with an approved LWRP are not to be undertaken.



# LWRPs and Consistency



- An adopted LWRP represents a refinement of the policies contained in the approved LWRP at the local level.
- The policies contained in an approved LWRP become the enforceable policies of the CMP for that area.
- The “consistency” provisions are a strong tool that help ensure all government levels work in unison to build a stronger economy and a healthier environment.
  - State permitting, funding, and direct actions must be consistent with an approved LWRP.
  - Within federally defined coastal areas federal agencies activities are also required to be consistent with an approved LWRP.
  - The LWRP also contains consistency provisions to guide local decision-making.

# Consistency Process



- Initial determination:
  - ▣ In designated coastal area?
  - ▣ Project type subject to local consistency review?
- Evaluation of all effects
- Identification of applicable policies
- Assessment of effect on policy – i.e., “significance” of effect
  - ▣ LWRP standards and guidance
  - ▣ State standards and regulations
  - ▣ Professional judgment
- Determination of consistency with all applicable policies
- Notification of applicants, coordination with other involved agencies

# Sample Reviews

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- New dock
- Marina reconfiguration
- Seawall repair
- Residential development

# New dock



- Navigation
- Public access
- Habitat/wetland impacts
- Use conflict – boating, fishing, diving, etc
- Community/visual character
- Local building standards

# Existing Marina: Reconfiguration

- ❑ Changed boat traffic – numbers, size/type of craft
- ❑ Expanded water surface coverage
- ❑ Impact on landside water-dependent uses
- ❑ Harbor Management Plan
- ❑ Underwater lands ownership
- ❑ Water quality impacts

# Seawall repair



- ❑ Visual/community character
- ❑ Public access
- ❑ Habitat impairment
- ❑ Erosion and coastal processes – on and off-site
- ❑ Local building standards

# New Residential Development



- ❑ Community/visual character
- ❑ Water quality impacts
- ❑ Habitats/wetlands
- ❑ Coastal flooding
- ❑ Effects on other water-dependent activities
- ❑ Public access