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Submerged Lands Study

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Executive Summary

This report focuses on issues and concerns relative to the management of submerged public lands in Alabama.

The Alabama Department of Conservation and Natural Resources Lands Division is the agency charged with the responsibility of protecting the citizens' rights to access and use State waters as vested by the Public Trust Doctrine.

At the same time, the Department is aware of the need to protect the rights that accrue to the riparian (or water's edge) property owner. Similarly, Alabama's economic vitality is inextricably linked to activities near or in the State's waters. Alabama's natural gas industry, fishing industry, shipping industry and tourism industry are all dependent upon the efficient utilization and fair allocation of submerged lands resources and management of uses within State waters.

Alabama's growth in residential, recreational, industrial and commercial uses has and will continue to create development pressure along the water's edge -- whether coastal or inland. In recent years, environmental and water-use concerns have reinforced the need for resource managers to be "pro-active" as opposed to "re-active" in considering approaches that could balance the competing needs and uses.

Studying other states and entities approaches to the issues is the first step in formulating guidance concepts that could enhance the state's ability to manage its submerged lands resources. Many other states (such as in the Northeast) are densely populated and because of development pressures, have experienced (are experiencing) many problems that Alabama could avoid. Therefore, they are especially important to review for "lessons learned". Our neighboring States of Florida and Mississippi have important innovative management approaches that could be considered for Alabama also.

Significant management issues reviewed through surveying other states are appropriate for Alabama to consider in developing management guidelines for its submerged lands

* Should development near/on State submerged lands be restricted to uses that are strictly water dependent (cannot exist elsewhere)?

  An important issue -- densely populated areas especially restrict or condition uses that are not absolutely essential to commerce and are not, by necessity, water-dependent.

* How can the needs of the general public to "reasonably" access the water and shoreline of a waterbody be ensured?

  Many states are practicing strategies to acquire linear walkways along the water's edge and provision of public access amenities such

as boat ramps and public piers as part of development approvals for private projects.

* How can sensitive environmental conditions be protected from development intrusion?

  Many states are effectively "managing by Ecosystems" in acknowledging that nature does not recognize artificial boundaries. In essence: the particular needs and balancing of important ecosystems (such as those in preserves), should be the underpinning when deciding management strategies. The quality of the ecosystems should not be diminished in meeting the short term needs of commerce.

* How many is too many piers/structures/uses in one waterbody?

  Several states reviewed consider the cumulative and secondary effects caused by the "nibbling" or incremental effect of permitting too many structures in a limited area.

* What is the maximum size a structure over State submerged lands should be?

  Design and performance standards for submerged lands structures are effective management tools utilized by many States.

Numerous other issues and considerations were reviewed in surveying other state's submerged lands management approaches. These include but are not limited to: permitting procedures, monitoring and enforcement, provisions for existing structures (prior to date of regulation), determination of lease fees, licenses and terms.

Introduction

The waters and waterbottoms (submerged lands) of Alabama are some of the State's most important resources. The right to the access and the use of these resources is one of the most commonly held expectations of the citizens of Alabama. However, as growth along the State's waterfronts and activities within the State's waters increase, conflicts between competing interests and uses will similarly escalate.

The "trustee" for Alabama's public lands --including the lands seaward of the mean high tide line, tidal lands, bottom lands of the Gulf of Mexico, the bays, rivers, creeks and other navigable waterbodies in the State, is the **Alabama Department of Conservation and Natural Resources Lands Division.**

The Agency has the challenge of ensuring the public's rights to State lands and submerged lands while affording reasonable use opportunities to water's edge property owners and developers.

In order to effectively balance the increasing needs of private and development interests Alabama's submerged lands with the rights of the general citizenry to access the public waters of Alabama, the **Alabama Department of Conservation and Natural Resources Lands Division** acknowledges the needs to develop realistic and reasonable management policies and enforceable guidelines.

What is the purpose of this study?

As a precursor to the development of management policies and guidelines, it is essential to review the authority inherent in management of public submerged resources.

It is equally important to review the management procedures and experiences of other states (and entities) relative to public submerged resources. Accordingly, this study consists of:

(1) An overview of the issues involved pertaining to the management authority vested by the Public Trust Doctrine. And,

(2) an inventory of other coastal states and other entities approaches and experiences in managing public trust lands.

Submerged lands and the Public Trust

What is meant by the "Public Trust"?

Originating in the early codification of Roman law, certain basic rights as tenants of "natural law" were held common to all people. Air, water, the sea and the seashore, by their nature, belonged to all people and the purpose of holding "common things" in public trust was to protect the public's uses.

> "The shores are not understood to be the property of any man, but are compared to the sea itself, and to the sand or ground which is under the sea."
>
> *- Institutes of Justinian, 533 A.D.*

The concept of public ownership of the waters and shores later appeared in the laws of European nations in the Middle Ages. In the mid-thirteenth century English common law recognized public rights in the sea and seashore determining that by law all **navigable** waterways were common highways for public uses. The King held title to the soil below the high water mark of navigable waters for the public benefit. The monarchs' property included "the rivers that are arms of the sea and the shore of the sea ... between the ordinary high water and low-water mark".

When the American colonies gained independence from England, the state governments assumed the role of "King" in respect to rights over waters within their borders while under the dual sovereignty system, the new federal government retained a "federal navigation servitude" authority to facilitate and maintain interstate commerce. (Under the "equal footing doctrine", all states subsequently admitted to the Union received the same rights as the original 13 states.)

The meaning of the word "navigable", has lent considerable confusion in determining jurisdiction. The United States courts promulgated the "navigability-in-fact" test as the proper analysis for determining the waterways included within the public trust. Under this test, waters were deemed "navigable" when **susceptible** of being used "... in their ordinary condition as highways for commerce, over which trade and travel could customarily be conducted.... The true criterion is the capability of use, however difficult by the public, for purposes of transportation and commerce and the mode by which transportation or commerce is conducted is of no import whether by steamer, sailing vessel or canoe". This interpretation consequently lead to the so-called "toothpick" theory of navigability. As the Supreme Court of Mississippi held in Cinque Bambini "... Yet so long as by unbroken water course - when the level of the waters is at mean high water mark

-- one may hoist a sail upon a toothpick and without interruption navigate from the navigable channel/area to land always afloat, the waters traversed and the lands beneath them are within the inland boundaries we consider the United States set for the property granted the state in trust."(sic). In the landmark Phillips Petroleum Co. v. Mississippi, the U.S. Supreme Court decision affirmed Mississippi's claim to waterbeds and held that "states upon entering the Union, were given ownership over all lands beneath waters subject to the tide's influence."

Alabama's State Waters

Alabama Coastal Waters include: the **Mobile Delta** which encompasses the **Mobile River**, its tributaries and connecting streams, lakes and their tributaries; **Mobile Bay, Mississippi Sound, Perdido Bay,** and all other coastal waters connecting to Mobile Bay and their tributaries.

The **Mobile-Tensaw River delta** extends southward from the confluence of the Tombigbee and Alabama Rivers, near the Mobile-Washington county line, approximately 35 miles to the northern end of Mobile Bay. The delta opens into the bay through four major tributaries: Mobile, Tensaw, Apalachee, and Blakely Rivers, and numerous small creeks and streams.

The stream channels are characteristically wide and shallow in cross-section, and the channel slopes are relatively flat, resulting in low stream flow velocities. Waters in the Mobile Delta are subject to tidal currents and tidal influence from Mobile Bay has been documented in Mobile River as far up as Mount Vernon (river mile 41). The delta consists of approximately 89 square miles and is estimated to be composed of 20,332 acres of open water, 10,450 acres of fresh-mixed marsh, 69,348 acres of swamp, and 84,839 acres of mixed bottomland forest.

Mobile Bay is a submerged river valley about 31 miles long from its mouth to the Battleship Parkway at its northern end. It is about 23 miles across at its widest part between Mississippi Sound and the Eastern Shore of Bon Secour Bay and has an average width of 10.8 miles.

The opening of Mobile Bay into the Gulf of Mexico is over 3 miles wide. The Intracoastal Waterway connects Mobile Bay to Perdido Bay through a cut from Oyster Bay to the west to Weeks Bay to the east. In addition to the rivers leading into the bay from its northern end

(the Mobile-Tensaw River Delta), Fish River, Magnolia River and Bon Secour River enter the bay along the eastern shore of Baldwin County. Dog River, Fowl River and the Theodore Industrial Canal (Deer River) flow into Mobile Bay from the western side.

Perdido Bay lies at the mouth of the Perdido River and separates Florida and Alabama. It opens into the Gulf of Mexico through Perdido Pass and is about 17 miles long and is 2 to 4 miles wide through much of its length. To the east, it is connected to Pensacola Bay through the Intracoastal Waterway and Big Lagoon. To the west it is connected to Mobile Bay by Bay La Launch, Wolf Bay and the Intracoastal canal. It has approximately 17,271 acres of open water and an average depth of 7.9 feet. Its shoreline and that of its associated bays is 91.5 miles long, most of which is relatively undeveloped.

The Perdido River Basin comprises the eastern half of Baldwin County and encompasses approximately 810 square miles in Alabama. The principal waters include the Perdido River, Dyas Creek, Hollinger Creek, Styx River, Blackwater River, Negro Creek, Sandy Creek, Perdido Bay, Wolf Bay, Bay La Launch, Arnica Bay and other coastal waters.

The interconnected system of small bays and estuaries is transacted from east to west by the Gulf Intracoastal Waterway (a 17.9 mile long, 12 foot deep and 125 ft wide federal navigation channel).

Important rivers of Alabama essential comprise three goups: the Tennessee, the Mobile and its tributaries, and other rivers that empty into the Gulf of Mexico. The Tennessee River enters Alabama in the Northeast and makes a broad loop across the State, flowing out in the North west corner as part of the Tenn-Tom Waterway. (Its course is marked by the dams and artifical lakes of the Tennesse Valley Authority.)

The Tombigbee River enters Alabama from Mississippi in the central section and receives the Sipsey, Alabama, and Alabama Rivers. The Coosa, Tallapoosa and Cahaba rivers are tributaries to the Alabama River. The Conecuh, Choctawhatchee and Chattahoochee rivers flow south into the Gulf of Mexico with the Chattahoochee forming part of the Alabama-Georgia border.

The Mississippi Sound is a body of water that lies directly south of the mainland of Alabama and Mississippi. Extending from Mobile Bay in the east to Bay St. Louis in the west, the Sound is approximately 100 miles long. To the south it is bounded by a group of sandy barrier islands all of which lie approximately 10 miles off the coast. The courts have ruled that the Sound is an "historical bay" because it meets the tests required for consideration as "inland waters" pursuant to the Submerged Lands Act.

The Alabama portion of the Mississippi Sound extends from its connection with Mobile Bay on the east to the Alabama-Mississippi State line to the west. The estimated watershed of the basin is 100 sq. miles and the estuary is composed of 92,702 acres of open surface water and 13,261 acres of marsh. **Little Lagoon** is a narrow body of water about 8 miles long and averaging about .5 miles wide and

4 feet deep located at the base of Fort Morgan Peninsula. Settled with summer and year-round homes, its opening into the Gulf of Mexico through the inlet located near the middle of its southern shore is a multi-jurisdictional subject of controversy due to off-site impacts from jetties built Gulf-side to keep the lagoon pass open.

Weeks Bay, located on the eastern side of Mobile Bay, is a pristine body of water meriting the special significance of being a National Estuarine Research Reserve.

How do other States/Entities regulate submerged lands?

ALASKA

How and when were Alaskan boundaries for public trust lands delineated?

Submerged Lands Act of 5/22/53. All lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line 3 geographical miles from the coast are owned by the State.

What provisions were enacted for existing structures or uses?

"Preference right" grandfathers occupied land or development on or before date of Statehood. Basically, if State determines use to be in public interest, the applicant is allowed to lease the occupied area at fair market value.

What is the State agency or department responsible for administering submerged lands regulation?

DNR, Division of Land. In some legislatively designated areas (critical habitat, game refuge) cooperation is with Department of Fish and Game.

What is the permit procedural path an applicant must follow?

File application with fees, complete project questionnaire, provide development plan, proof of financial responsibility, ownership verification and current uses, determination of potential environmental risks.

What are the basic design performance standards for construction of structures over State waterbottoms and uses?

None established to date. Development plans are reviewed for siting, design and performance. Requires a bond to be posted for development or alteration.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Inspected regularly, attempt to bring violations into compliance. No citation authority hampers ability to ensure compliance - must resort to lengthy civil court procedures.

How are needs for public access to the water's edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

Municipal governments have easement or building setback requirements. The State reserves easements on land prior to conveyance, e.g. on navigable or public waterways, a 50' easement upland of the waterway is reserved. Also reserve access to same about every mile.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

Conduct "Best Interest Finding" to determine need to address public concerns, cumulative effects or environmental limitations or for any necessary mitigation.

Are environmental assessment/impact statements required before approvals? public comment? mitigations of impacts?

Environmental audits and public notice are required.

How are lease fees determined?

The State of Alaska is prohibited by state law from selling or granting any tidelands, shorelands or submerged lands. The state may lease, issue easements or land use permits.

The term varies with the activity and type of authorization being issued. Short term uses are covered by easements or land use permits and are generally issued for a 1 year term but can be issued up to 5 years. Permit conditions are handled on a case-by-case basis but always include requirements for guaranteeing continued public access. Fees are discretionary with minimums established at $500 for personal use (floating homes) and $650 for commercial use. Fair market value may be charged.

Long term uses (2-55) years are covered by leases. Most leases are from 10 to 35 years. Lease conditions are handled on a case-by-case basis but always protect public interest such as access. Leases are issued for fair market value unless the lease is for a public purpose and the fee can be negotiated. These public purpose leases are almost always issued to a municipal government for such things as a park or a public dock. Commercial uses on these leases is prohibited. Permit fees are established on a yearly basis by administrative order. The fees vary by the activity and location in the state. For the past 10 years, Alaska has established the rate by the average fair market value for an acre in a geographical area. The type of activity and size needed for the activity is generally not a consideration. Lease fees are established by a fair market value appraisal which is conducted at the time the lease is issued and every 5 years thereafter. Fair Market Value is generally 10 to 20 percent of the fair market value of adjacent uplands. Current annual lease rates are 8 to 10 percent of the fair market value.

CALIFORNIA

How and when were California boundaries for public trust lands delineated?

At Statehood 1850, tidelands, submerged lands, beds of navigable waterways are in the public trust. Tidelands delineated as between ordinary high and ordinary low tide. Submerged lands below ordinary low water line. Boundaries often based on last natural conditions.

What provisions were enacted for existing structures or uses?

Not specifically addressed in statute. Existing facilities may be exempted from environmental review in limited circumstances.

What is the state agency or department responsible for administering submerged lands regulation?

State Lands Commission. Also State Legislature has given administrative power over some cases to local governmental entities with commission retaining oversight. Also, California Coastal Commission with jurisdiction over coastal zone (CZM), San Francisco Bay Conservation and Development Commission for the bay and waterward from line of highest tidal action, Department of Fish and Game, Water Resources Control Board and Regional Water Quality Control Boards; all have regulatory authority in specific areas.

What is the procedural path an applicant must follow?

Generally - notice filed with Commission; commission sends application to applicant if project is appropriate use. When application is complete, time frames begin - 1 yr if environmental impact report required, 6 months if not. After environmental review, lease is negotiated and recommended to Commission for action.

Application includes proof of interest in property (ownership) assessors parcel map, local approval, notice to adjacent property owners, vicinity map, project plans, written evidence of approval from Health Dept if well or septic tank required, copy of required environmental documents, verification of all permits and approvals from public agencies, site-specific geology and soils report if site of high geologic risk, filing fee, public notice.

What are the basic design performance standards for construction of tideland structures and uses?

None at this time. Surety bonds required. Special provisions including systems safety review may be added, usually when use of hazardous/toxic materials involved or use is inherently dangerous. There are detailed standards for oil and gas development activities.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Required by statute. Monitoring programs are stipulated in lease for all impacts identified in environmental review. Refundable deposit required to ensure construction compliance and applicant pays cost of staff/consultant to do actual site monitoring.

How are needs for public access to the water's edge met?

Constitutional provision and case law allow Commission to enhance public access by title settlements, lease provisions and cooperation with other State and local agencies. A number of dedications of access easements required in permits issued by Coastal Commission have been accepted by the Commission. Further the Commission notifies and comments on land developments e.g. subdivisions for public access compliance. Commission also represents prescriptive rights acquired by the public via doctrine of implied dedication.

Are there any growth management or limitation methods employed to address secondary and cumulative affects?

During CEQA's environmental review, consideration is given to this issue.

Are environmental assessment/impact statements required before approvals?, public comment? mitigations of impacts?

Must comply with CEQA. Initial study conducted by commission to determine significant affect on environment. Based on study findings, an impact report may be required or a negative declaration may be issued. ND may include mitigation measures. Public notice is circulated.

CONNECTICUT

How and when were Connecticut boundaries for public trust lands delineated?

Public trust doctrine applicable to lands below high tide line of all navigable waters. Also Connecticut Coastal Management Act of 1979 established Coastal Management Program.

Landward, the coastal boundary extends to 100' setback from inland boundary of tidal wetlands at 1000' setback from mean high water, or inland limit of the 100 year coastal flood zone, whichever is farthest inland. Seaward boundary determined by state's jurisdiction into Long Island Sound.

What is the state agency or department responsible for administering submerged lands regulation?

Department of Environmental Protection, Division of Coastal Resources Management

What is the procedural path an applicant must follow?

Application with usual info, review for consistency with coastal policies and guidelines, determination of adverse impacts and modification or mitigation, written certifications from Commission that no conflicts exist and measures to minimize impact have been taken.

What are the basic design performance standards for construction of structures and uses?

Must comply with policies and standards of 14 identified coastal resource categories, which specify approved land uses.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Rely heavily on citizen complaints. Permit compliance is monitored. Enforcement actions include penalties halting construction, removal of structures, corrective actions or restoration.

How are needs for public access to the waters edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

Funding has been provided for small scale municipal construction
projects, municipal coastal programs and required coastal site plan review. Through review process, new public access has been provided as walkways, waterfront parks, easements, an other agreements. A state boat launching facility has been expanded, funding provided for improved fishing access.

Are there any growth management or limitation methods employed to address secondary and cumulative effects.

Municipalities are encouraged to prepare long-range development plans, with funding and technical assistance from CRMD staff. Also Harbor Management Plans are encouraged and supported.

Are environmental assessment impact statements before approvals? public comment? mitigations of impacts?

Yes, yes, yes

DELAWARE

How and when were Delaware boundaries for public trust lands delineated?

Three mile limit recognized in Atlantic Ocean. Boundary between Delaware ad New Jersey determined by a survey at statehood. In other tidal areas, State owns to mean low water line and in non-tidal areas ownership is determined case by case from deeds per Subaqueous Lands Act of 1969, and amended by statute 1986.

What provisions were enacted for existing structures or uses?

No legal provisions. Administratively, existing structures prior to 1969 do not require a lease until modified beyond its original dimension.

What is the state agency or department responsible for administering submerged lands regulation?

Department of National Resources's, Division of Water Resources, specifically Wetlands and Aquatic Protection Branch.

What is the procedural path an applicant must follow.

File application, location map, scaled drawing of proposed activity, certified copy of deed and survey or written permission from owner.

What are the basic design/performance standards for construction of structures and uses?

Spelled out in Section 3.02 of drafted regulations (not yet adopted).

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Environmental Scientist coordinates uniformed enforcement officers and marine police. Routine aerial surveillance proves most beneficial.

How are needs for public access to the water's edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

Case by case basis, Have active program for purchasing riparian land for ramps and docks. If possible, developer is required to provide access point.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

Has not yet been resolved. Draft regulations not yet adopted. Is included in review of project as environmental consideration. As is applicant may be required to determine cumulative effects of aquatic ecosystem, natural surface and groundwater hydrology.

Are environmental assessment/impact statements required before approvals? public comment? mitigation?

May be required for major commercial activity or other with substantial impact. General assessment of potential impacts must be provided. Draft regulations call for mitigation to be included in permit or lease.

FLORIDA

How and when were Florida boundaries for public trust lands delineated?

Set forth in state constitution and Florida Administrative Code (most recently 3/27/82).

What provisions were enacted for existing structures or uses?

I characterizations: **Registered grandfathered structures** (application submitted to Department prior to 9/30/84 will be brought under lease as of 1/1998 or before. **Unregistered grandfathered structures** (revenue generating structure built before 3/10/70 or non revenue generating built before 3/27/82 will be brought under lease on 4/l/91 or earlier if sold, altered by more than 50% or altered without authorization.

What is the state agency or department responsible for administering submerged lands regulation?

Department of National Resources - Division of State Lands, Bureau of Submerged Lands and Preserves as staff to Board of Trustees of Internal Improvement Trust Fund (Governor and Cabinet).

What is the permit procedural path an applicant must follow?

Application (joint w/Corps, DER, DNR, WMD) reviewed for type of activity & completeness. Site inspection; public notice; meeting to discuss modifications, mitigations, etc. Applications includes all the usual elements plus statement for proposed erosion (turbidity) sedimentation controls. Also description of construction techniques and sequences, stabilizations methods, source and type of fill material, aerial photographs showing current conditions.

What are the basic design performance standards for construction of structures and uses?

Limited criteria primarily related to size. Activities limited to water-dependent uses unless in public interest to allow exception. Stilt house residential boathouses prohibited. Road access to islands not previously existing prohibited. Dock sizes depend on shoreline ownership (10:1 rule) - may use 10 sq. ft of submerged land to every linear foot of shoreline owned. May not extend into water more than 25% of width of water at site lines. Setback 25' from either side of riparian lines. Tips for Dock Construction made available as recommendations.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Compliance checks performed 1 year after lease authorization prior to renewal. May be done at mid-term (2 to 3 years) but not priority. Local resolutions attempted first.

How are needs for public access to the water's edge met? Are easement and/or developer provision of public areas such as boat ramps and parking required?

Offer lease fee discounts for facilities open free to public. In aquatic preserves, applicants may be required to demonstrate that the project is in the public interest; by providing public access, this requirement can be met.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

Part of the review process.

Are environmental assessment/impact statements required before approvals? public comments? mitigations of impacts?

Yes, yes, yes

How are lease fees determined?

A lease is required for any revenue generating structure or activity , facilities, private multi-family docking facilities in aquatic preserves and private multi-family docking at facilities outside aquatic preserves that preempt more than 1,000 square feet of submerged lands for every 100 linear feet of shoreline.

Leases are generally issued for a term of 5 years. Extended term leases up to 25 years may be issued subject to the adjusted fee schedules rates developed by the Board of Trustees Extended Term Lease Policy. Aquaculture leases are issued for a term of ten years.

An easement is required for bridge and utility crossings, navigation and flushing channels, borrow and spoil sites, shoreline stabilization projects, water management structures such as dams, weirs, levees, and swales, public navigation project channels, navigation, access, flushing and other channels, and any boat ramp uses in conjunction with an access channel for which an easement is required. The terms of public easements are limited to the life of the proposed project or amortization of the improvements are generally issued for a period of 30 years. The terms of private easements are limited to "reasonable" periods of time related to the life of the proposed project or

amortization of the improvements. No fees are assessed for public easements. Generally a one-time fee is assessed for private easements based upon an enhanced property value appraisal obtained by the applicant and ranging from 10 to 25 percent of the enhanced value. The Department of Natural Resources determines the percentage assessment in consideration of the extent to which the easement precludes traditional or future public uses of sovereign submerged lands. If activity involves placement of structures, an annual fee may be assessed based upon the lease fee base rate and is in addition to the onetime enhancement fee. If placement structures are not involved, generally a land value fee is assessed for the initial easement term and then is also subsequently applied to any renewals.

A Use agreement can be issued with a letter of consent conditioned upon the applicant complying with the General Consent Conditions and for certain projects which provides for modification/discontinuation, etc., after a 5 year period as may be determined by the Department of National Resources. These use agreements are issued for the same terms as public easements and are generally for periods of 10 to 30 years. There are no fees generally assessed for letters of consent except for maintenance dredging and new dredging of less than 500 cubic yards. There is no annual fee assessed for use agreements. An application processing fee of $500 for geophysical testing involving incidental crossing of submerged lanes and treasure salvage operations is required; an application processing fee of $800 for geophysical testing in offshore waters is required. No annual fees are assessed for management agreements. Management agreements are generally issued for terms of up to 30 years depending on the specific project site and activity involved.

Florida has an extended term lease policy and fee rate chart; Aquaculture leases are assessed a base annual rent of $15 per acre or fraction thereof; and an annual surcharge representing $5 per acre or fraction thereof.

There are no fees assessed for pubic easements. Generally a one time fee is assessed for private easements based upon an enhanced property value appraisal obtained by the applicant and ranges from 10 to 25 percent of the enhanced value. The Department of Natural Resources determines the percentage assessment in consideration of the extent to which the easement precludes traditional or future public uses of sovereign submerged land. If an activity involves placement of structures , an annual fee may be assessed based upon the lease fee base rate and is in addition to the one-time enhancement fee. If placement of structures is not involved, generally a land value fee is assessed for the initial easement term and then is also subsequently applied to any renewals.

No fees are generally assessed for letters of consent except for maintenance dredging and new dredging of less than 500 cubic yards.

No annual fees are assessed for use agreements. An application processing fee of $500 for geophysical testing involving incidental crossing of submerged lands and treasure salvage operations is required; an application process fee of $800 for geophysical testing in offshore waters is required.

No annual fees are assessed for management agreements

GUAM

How and when were Guam boundaries for public trust lands delineated?

Seashore Protection Act of 1974 defines "seashore reserve" as land and water seaward to the 10 fathom contour, except villages where residences constructed along shoreline prior to Act's effective date, and inland to the nearer of: from mean high water for a horizontal distance of 10 meters or from mean high water to the inland edge of the nearest public ROW.

What provisions were enacted for existing structures or uses?

Grandfathers everything for which building permit was issued prior to effective date, provided no substantial changes (not in accordance with new requirements) are made.

What is the state agency or department responsible for administering submerged lands regulation?

Bureau of Planning administers coastal management program. Seashore Planning Act created the Territorial Seashore Protection Commission to prescribe plan for permitting and regulation.

What is the permit procedural path an applicant must follow?

Apply, public hearing, review for federal consistency performance, bond
Guam EPA issues Water Quality Certificate and requires Environmental Protection Plan. Clearance may be required from Historic Preservation Officer. Also a series of land use and building permits required from Territorial Land Use Commission, the Development Review Committee, and Department of Public Works.

How are needs for public access to the water's edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

This is addressed in the Seashore Protection Act as a provision of the Seashore Reserve Plan

LOUISIANA

How and when were Louisiana boundaries for public trust lands delineated?

In 1812 (Statehood) Under "Equal Footing Doctrine" State gained title to all naturally navigable bodies of water. Marsh/swamplands were patented (deeded) to private companies/individuals (except for navigable waterbottoms) Validity of patents has been questioned since Phillips decision in Mississippi, but upheld to date. State owns beds and bottoms of all naturally navigable streams, bayous, rivers up to mean low water and lakes, bays areas to the mean high water. No demarcated line of public vs. private ownership.

What provisions were enacted for existing structures or uses?

None - (this has been a problem according to administrators)

What is the state agency or department responsible for administering submerged lands regulation?

State Land Office under Department of Administration is responsible for titling and managing, except for mineral leasing, ROW;s, surface leases and permits and leases to riparian owners.

Department of Wildlife & Fisheries responsible for leasing for oyster/shellfish culture. Also grants leases for commercial dredging/shell removal. Also manages a program for regulation of designated "scenic streams."

Coastal Management Division of the Department of Natural Resources handles coastal zone management program. Permitting of activities within designated coastal zones and manage the joint public notice program with Corps of Engineers for Section 404 & 5.10 programs.

What is the permit procedural path an applicant must follow?

Written notification to commissioner of Division of Administration, apply to parish governing authority, apply to Corps of Engineers, publish notice in official parish journal, pay fees,

Application must include certified copy of deed or certified copy of instrument which shows applicant's interest (lease, etc) in the property and 2 owners permission for project. Also certified survey plat showing old and present shoreline and limits of reclamation; plan view of activity site-section view of activity site. Application must be followed by either a boundary agreement (fixes definitive boundary between reclaimed area & waterbottoms) or lease agreement (operates/maintains encroachment).

What are the basic design/performance standards for construction of structures and uses?

Reclaimed land must be raised to minimum height of 6" above mean high water and stabilized along newly created bank or shore by

masonry, concrete mats, riprap, sheet piling, bulkheads or similars.

Structures (wharves, piers) are assessed 2 cents per sq feet of state-owned waterbottom enclosed or utilized by the structure, including adjacent & contiguous water in 10' increments. Some design standards may be imposed by local planning commissions.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Review permit applications submitted to other agencies, routine spot inspections; encourage public participation in monitoring public lands. Other regulatory agencies have field inspectors.

How are needs for public access to the water's edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

Drainage, public navigation, fisheries in surrounding area are not to be impeded. Public access shall not be denied unless it unreasonably interferes with Lessee operations. All uses should be conducted to permit multiple uses including recreation.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

In evaluation of compliance with "Coastal Use Guidelines" as administered by DNR at time of application) specific adverse affects to avoid are cited in Guideline of Louisiana Coastal Resource Program Final EIS.

Are environmental assessment/impact statements required before approvals? Public comment? Mitigations of impacts?

Yes, public notice and comments, negative responses may cause public hearing, mitigation through assessments of secondary and cumulative impacts plus through guiding development of other areas; development of enhancements programs for barrier island protection, freshwater diversion & accelerated delta building.

MAINE

How and when were Maine boundaries for public trust lands delineated?

English common law, at statehood. Management legislation in 1975 via Submerged Lands Act. Boundaries - land from mean low water mark or a maximum of 1,650' seaward to the mean high water mark whichever is closer out to the seaward boundary of coastal waters.

And all land below the mean low water mark of tidal rivers upstream to the farthest natural reaches of the tide. And land below the natural mean low water of ponds less 10 acres. And river beds of international boundary rivers.

What provisions were enacted for existing structures or uses?

Extended constructive easements for 30 years to owners subject to no significant alteration of the structure or use. Registration program for these beginning 1/1/91 and completed by 12/31/95.

What is the state agency or department responsible for administering submerged lands regulation?

Bureau of Public Lands; Submerged Lands Management is agency of Department of Conservation. Interacts with State Planning Office's Coastal Program, Department of Environmental Protection Marine Resources, Fisheries Wildlife, Transportation Economic Development, Land Use Regulation Commission.

What are the surveillance and monitoring techniques employed to ensure compliance with state tidelands regulations?

Possible site visit. Written notification of noncompliance. If do not comply by deadline, structure may be ordered removed. Legal action will follow.

How are needs for public access to the waters edge met? Are easements and/or developer provision of public acres (such as boat ramps and parking) required?

Major consideration during review process. Statutes allow negotiation to protect or enhance public access. Also covers mitigation of other impacts.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

Review attempts to assess cumulative impacts and reconcile discrepancies.

Are environmental assessment/impact statements required before approvals? public comment? mitigations of impacts?

Most do not require formal statement, but specific studies or modifications may be required. Public comments taken by all agencies involved. Mitigations at review.

How are lease fees determined?

MASSACHUSETTS

How and when were Massachusetts boundaries for public trust lands delineated?

Ownership in tidelands and great ponds established by Colonial ordinance 1641 and 1647. These confirmed private ownership to low water, subject to fishing, fowling and navigation easements. State owns land below low water - can be created into private only by legislature, a grant meeting strict standards and for a proper public purpose. Scope of easements has been subjected to litigation.

What provisions were enacted for existing structures or uses?

Have required tidelands licenses since 1866.

1. No license required for continuing use of lawfully filled private tidelands if there have been no structural alteration or change in use since 1/1/84 or in violation of an expressed condition of the grant or license authorizing the filling.
2. Amnesty period of 3 yrs (ends in 10/93) for licensing unlicensed work in existence since before 1/1/84.
3. "interim approval" (30 yrs; non-transferrable) can be given to certain small water-dependent projects which are accessories to single family residences. (For instance, a pier for personal use). This postponement of licensing allows a homeowner to avoid the expense of professionally stamped plans.

What is the state agency or department responsible for administering submerged lands regulation?

Department of Environmental Protection Waterways Regulation Program

What is the procedural path an applicant must follow?

1. Pre-application consultation
2. Filing & Completion of application
(set of plans, fee, statement of public purpose, public comment
3. Plan Content & specification (maps, etc.)
4. Information on other state and local approvals (list of environmental regulatory programs, copy of environmental notification form and

certificate of secretary certification that project does not require municipal approvals, certification from city of license application.
5. Application automatically expires after 2 years if deemed incomplete.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Site visits at time of application and at completion of project; annual fee charged to non-water-dependent projects funds inspectors. Local harbormasters also report problems, monitor public notices required by MEPA, Corps of Engineers, etc. which lists projects that may require licenses.

How are needs for public access to the water's edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

Licenses conditioned upon provision of public access especially for non water-dependent uses. Access to flats is limited to fishing, fowling and navigation. In present or former submerged lands, more extensive access requirements are imposed.

Are their any growth management or limitation methods employed to address secondary and cumulative effects?

Through municipalities via municipal harbor plans. (new program)

Are environmental assessment/impact statements required before approvals? public comment? mitigations of impacts?

Impact statements required as part of MEPA (modelled after NEPA). Projects not requiring MEPA are very small. Public notice and often public hearing is part of application process. License conditions mitigate impacts by requiring public access or relocation of displaced water-dependent businesses.

MICHIGAN

How and when were Michigan boundaries for public trust lands delineated?

Northwest Ordinance of 1787 declared navigable waters, etc., held in trust for use of the people. Michigan acquired this trust when it entered the Union in 1837. Great Lakes Submerged Lands Act 1955 codified common law and public trust doctrine as applies to Great Lakes bottomlands and waters. Defined by "lying below and lakeward of natural ordinary high-water mark" but excepts swamp land grants or rights acquired through natural accretions. High water marks further specifically delineated for each Lake.

What provisions were enacted for existing structures or uses?

None. All past fills or occupancies are considered trespasses against public trust title and are required to obtain authorization to continue. Courts have held that adverse possession does not run against the state's perpetual duty to oversee public trust lands.

What is the procedural path an applicant must follow?

Application including survey and description of subject and adjacent property, title abstract, and tax history. Approvals from federal agencies, waterways commission, local governments; fees

What are the basic design/performance standards for construction of structures and uses?

Noncommercial piers, etc., are of similar size to other in vicinity and allow for free flow of water. Seawalls, etc. must be constructed of materials free of pollutants, waste metals, debris or organic materials and must not be more than 300' long and in an area where similar structures already exist. Backfill not to exceed average of 3cu yds per running foot along shoreline and max of 300 cu yds. Low profile, not more than 1' above water level. Many other specific regulations.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Field officers conduct inspection before issuing permit. Also final inspection. Enforcement action may be brought for noncompliance.

How are needs for public access to the waters edge met? Are easements and/or developer provision of public area such as boat ramps and parking required?

Must not substantially affect public use or impair public trust. Contains provision for public access (only in conveyance to local governments) Will not interfere with public navigation rights, is on an overall beneficial nature.

Are environmental assessment/impact statements required before approvals? public comment? Mitigation of impacts?

EIS may be required after preliminary review of application. Public notice made to affected parties. Mitigation required before approval.

MISSISSIPPI

How and when were Mississippi boundaries for public trust lands delineated?

Per Coastal Wetlands Law of 7/1/73 **(note: in Mississippi "coastal wetlands" refers to tidelands and waterbottoms NOT wetlands by EPA standards)** - publicly owned lands subject to ebb and flow of the tide, below the watermark of ordinary high tide; publicly owned accretions above the watermark of ordinary high tide; publicly owned submerged waterbottoms below the watermark of ordinary high tide. Includes flora and fauna. Extends seaward to state boundary. Per Landmark Supreme Court decision: Phillips Petroleum vs. Mississippi, the State has been reinforced in its ownership of submerged lands.

What provisions were enacted for existing structures or uses?

Restricted to existing uses occurring on or adjacent to upland sites or historical uses in water areas such as dredge material disposal areas, shellfish growing areas, navigation channels, etc.

What is the state agency or department responsible for administering submerged lands regulations.

Mississippi Department of Wildlife Fisheries and Parks/ Bureau of Marine Resources is responsible for wetlands. Secretary of State prepares leases trust lands.

What is the procedural path an applicant must follow?

Files "joint application" with Corps of Engineers, BMR, and DEQ. Application includes description, schedule, cost, purpose, public benefits, public use, plan view, names of adjacent property owners. Also lists of approvals received from Bureau of Pollution Control, BMR, Corps of Engineers, City/ County. Also to be attached are vicinity maps, authorized agent, environmental assessment, and justification for any request of variance in guidelines of Coastal Wetlands Use Plan.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

via fly overs, site inspections.

How are needs for public access to the waters edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

Urban waterfront plans and sand beach plans address access needs and improvements. Access construction projects (boat ramps/fishing piers, parking lots) have been funded through CZMA Section 306A Low Cost Construction Program.

Are their any growth management or limitation methods employed to address secondary and cumulative effects?

At this time no specific method to address. Identified as a need.

Are environmental assessment/impact statements required before approvals? public comment? mitigation of impacts?

Yes, Yes, Mitigation required when all other methods to prevent wetland loss are exhausted.

NEW HAMPSHIRE

How and when were New Hampshire boundaries for public trust lands delineated?

Mean high tide lines marks landward limit of public ownership derived from English Common law principles. Regulation of dredging, filling, placement of structure in public waters is carried out by N.H. Wetlands Board (authorized by statute and comprised of representatives of state agencies and municipal officials).

What provisions were enacted for "grandfathering" existing structures or uses?

Structures in place prior to enactment of regulatory program (6/22/67) are grandfathered.

What is the state agency or department responsible for administering submerged lands regulation?

State regulates activities which impact submerged lands through wetlands permitting. State Port Authority regulated boat moorings, harbor planning and management.

What is the permit procedural path an applicant must follow?

No procedure for submerged lands leasing. Process is for wetlands permits, mooring permits or aquaculture permits.

What are the (basic) design/performance standards for construction of tidelands structures and uses?

Specific for uses

What are the surveillance and monitoring techniques employed to ensure compliance with state tidelands regulations?

Environmental inspectors (2) monitor projects which impact wetlands and submerged lands.

How are needs for public access to the water's edge met? Are easement and /or developer provision of public areas such as boat ramps and parking required?

Open N.H. coast mostly public and managed for recreation - no developer provisions required. Along estuarine shoreline, much frontage is privately owned. Access areas for boating, picnicking are limited in size.

Are there any growth management or limitations methods employed to address secondary ad cumulative effects?

not directly addressed

Are environmental assessment/impact statements required before approvals? opportunity for public comment? mitigations of impacts?

Only when a Wetlands Board permit is required. Direct filling of submerged lands/wetlands is not allowed unless project is deemed to be in the "public good". In these projects, mitigation is usually required as determined on case by case basis.

NEW JERSEY

How and when were New Jersey boundaries for public trust lands delineated?

English common law -(Public Trust Doctrine) Boundary is the mean high tide including formerly filled lands. Mean high water based upon theoretical 18.6 year tide. Tidelands delineation and mapping now being conducted until completed determinations are made case by case. Waterfront Development Law (1914) regulates construction or development up to first property line, public road or railroad, provided it

is between 100 -500 feet from waterway. Coastal Area Facility Review Act (CAFRA) regulates location, design, and construction in coastal region. Wetlands Act (1970) regulates activities on coastal wetlands.

What provisions were enacted for existing structures or uses?

CAFRA grants exemption to facilities that were in place or under construction on or before 9/19/73. Wetlands Act exempts permitting for existing prior to 1/1/81 as long as repairs or renovations do not increase size and structure is solely residential or for use of pleasure vessels.

What is the state agency or department responsible for administering submerged lands regulation?

Department of Environmental Protection and Energy Land Use Regulation Program (Tidelands Management Program is part of LURP- they have Tidelands Resource Council).

What is the permit procedural path an applicant must follow:

Optional pre-application conference, application, public comments, application completed and reviewed, option public hearing. CAFRA regulations add mandatory public hearing EIS.

What are the basic design performance standards for construction of structures and uses?

Design guidelines for public access have been adopted . These are specific to type of structure or use. Standards are also imposed during review process for location, usage and resource restrictions. N.J. has adopted a 3 step process for review: location, use and resource policies are defined for each type. A proposal must satisfy each set of policies.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Site inspections are provided for in permit. Modifications can be required permits suspended or revoked.

How are needs for public access to the water's edge met? Are easements and or developer provision of public areas such as boat ramps an parking required?

Each shorefront development proposal must address 12 policies relating to access, visual and physical. Plan must identify areas appropriate for public access. Easements may be required. Developer provision of linear walkways is required. Parking must be provided in publicly funded projects.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

Growth management measures provided through 3 step review process. Areas of the Jersey Shore are rated for their ability to withstand development with filled water's edge allowing the most intense. Other areas of sensitivity have limitation on coverage, etc. The EIS for wetlands projects must analyze indirect effects of proposed activity on adjacent and noncontiguous areas.

Are environmental assessment/impact statements before approvals? public comment? mitigations of impacts?

Yes, under CAFRA public hearing and review mitigation considered case by case.

NEW YORK

How and when were New York boundaries for public trust lands delineated?

Derived from English Common Law (public trust doctrine). New York presumptively holds title to "land under water", that is below the high water mark on rivers & tidal water bodies. Also below low water mark on lakes and ponds. Historic boundary delineation of public trust lands has been mean high water mark. New York has adopted the line of vegetation test as the means to locate this boundary. Exceptions to boundary in Nassau and Suffolk Counties where colonial patents (deeds) conveyed ownership to towns.

What provisions were enacted for existing structures or uses?

Grandfathers any development or activities which had final approval from appropriate local government prior to date of regulations. Tidal Wetlands Act grandfathers any structure lawfully in existence as of effective date of regulation. Any further states that the new restrictions will not be deemed to require a variance for repair, restoration or rebuilding but that such activity may be subject to the new permitting requirements. It further stipulates a provision that repair, etc., activities to existing structures must not increase non compliance with regulations.

What is the state agency or department responsible for administering submerged lands regulation?

Department of State - Coastal Management Program Department of Environmental Conservation - Tidal Wetlands Act, Coastal Erosion Hazards Areas Act State Environmental Quality Review Act & Stream Protection Act. Office of General Services - Article 6 of Public Lands dealing with grants of land under water.

What is the procedural path an applicant must follow?

Certifies that proposed action is consistent with coastal policies of the Coastal Management Program. Files "Consistency Assessment Form". Completes federal agency app.

What are the basic design/performance standards for construction of structures and uses?

1. Min. setback of structures 100 ft (except boardwalks, docks, bulkheads, piers, etc. is 75') landward from the most landward edge. Within city of N.Y., this is 30'. In areas where existing structures are substantially the same type as proposed and are within 500' of proposed, the average setback may be used. No more than 20% of adjacent area can be covered by existing or new structures or impervious materials. Clustering of multi-family dwellings allowed to encourage maintenance of undeveloped areas. Surface water runoff shall be prevented by installing dry wells, retention basins, etc.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Periodic inspections by conservation officers. Site visits responding to complaints from citizens, environmental groups, local governments, or state agency staff.

How are needs for public access to the waters edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

Two policies of coastal management program directly address public access. Policy guidelines are used in project review process. Program encourages mixed use areas and multiple use of facilities. Existing access shall not be reduced, nor shall possibility of increasing access be eliminated. Projects evaluated based on level of estimated public use, also whether level of access causes a degree of use exceeding physical capacity of the facility.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

Need to do so has resulted in program changes this year with Section 309 grant changes include preparation and adoption of regional coastal management programs, improvements in local government management of coastal resources and centralizing the determination of consistency of projects and activities in the coastal area with state coastal policies.

Are environmental assessment/impact statements required before approvals? public comment? Mitigations of impacts?

Required of most significant projects through the State Environmental Quality Review Act (SEQR) provides for public comment and hearings and mitigation.

NORTH CAROLINA

How and when were North Carolina boundaries for public trust lands delineated?

English Common Law (Public Trust Doctrine). Case law further defined as "creek or river wide and deep enough for sea vessels to navigate and without obstruction of navigation from mouth to ocean and the limit of whose waters not higher nor as high as the flowing of the tides upon sea coasts is a navigable stream within general rule. Where the tide ebbs and flows between the high and low water is public trust but may be subject to a direct special legislative grant (to the farthest influx of sea water).

Per NC statute "mean high water mark", also provides that land raised above high water mark as result of pier, etc. vests in property owner. Also landowner may gain title to filled shorelines by 1) reclamation of eroded land 2) land raised within bounds of state conveyance 3) land raised under lawful permit 4) land raised through deposit of spoil from state/fed navigation projects. Coastal area Management Act of 1974 guides development and creates Coastal Resources Commission.

What provisions were enacted for existing structures or uses?

Statute claimed lands under navigable waters as of 1965. Lands filled and raised above mean high water between statehood and 1965 under permit would not be subject to public trust rights. Supreme Court voided deeds and grants issued by state on submerged lands. Also General Permits for development in AEC (areas of environmental concern) prior to 3/1/78 are issued, provided they had legal permits or had applied for legal permits and were accepted. If pending permits expired, regular CAMA permit required.

What is the state agency of department responsible for administering submerged lands regulation?

Coastal Resources Commission/ Department of Environment Health and Natural Resources Division of Coastal Management and Division

of Marine Fisheries (for ownership issues and public access rights).

What is the permit procedural path an applicant must follow.

File application and fee. Public notice. Field Report and site inspection.

What are the basic design performance standards for construction of tideland structures and uses?

Waters are classified according to suitable uses. National Pollution Discharge Elimination System permit required for discharging into waters. Waters designated as "Outstanding Resource Waters" receive special protection. In these development within 575' of mean highwater must meet low density requirements (25% built-upon area adjacent to "commercial" use waters & 30% adjacent to others.) No new marinas in DRWs unless fewer than 30 slips, no boats larger than 21' and no boats with heads. Other standards set by local jurisdictions.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Site inspection at commencement. Notices of violation issued, cease and desist orders, civil penalties assessed, restoration may be required.

How are needs for public access to the waters edge met? Are easements and or developer provision of public areas such as boat ramps and parking required?

Beach Access Program uses funds to acquire lands to benefit public with priority given to land unsuitable for development. Include parking areas, pedestrian access and walkways, restrooms and other public beach access support facilities.

Are their any growth management or limitation methods employed to address secondary and cumulative effects?

Mitigation policy in statutory authority. Benefit the public interest must outweigh long range adverse affects.

Are environmental assessment/impact statements before approvals? public comment? Mitigations of impacts?

Field report prepared by Department following site inspection. This report is circulated to various agencies, recommendations are made and limitations may be imposed as conditions. Public comment yes, mitigation through planning, site selection, development standards and creation/restoration of coastal resources.

OHIO

How and when were Ohio boundaries for public trust lands delineated?

Since 1917. Claims title to public trust lands and waters of Lake Erie through Statehood (1803) based upon equal footing doctrine. Laws of Ohio uses "natural shoreline" as delineation of upland ownership and submerged lands.

What provisions were enacted for existing structures or uses?

Environmental impact assessment requirement waived for "artificially filled areas" or "filled" portion of any area existing as of 3/15/89.

What is the state agency or department responsible for administering submerged lands regulations?

Apply with Army Corps of Engineers for any work in Lake Erie. Apply for Lakes Erie submerged lands lease. All other agencies are notified of application. Submerged lands lease issued only with Corps of Engineers permit.

What are the basic design performance standards for construction of structures and uses?

No determination of the engineering quality of the project is made. Office of the Chief Engineer reviews shore erosion projects, but only makes comments regarding the ability of the structure to protect shoreline.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Inspections done periodically; aerial photographs every 3 years for review.

How are needs for public access to the water's edge met? Are easements and/or developer provision of public acres such as boat ramps and parking required?

Evaluation of present/prospective recreational uses. Provision for public access may be condition of lease depending on historic use patterns and suitability of leased site for recreation uses. Lease is subject to public's right to navigation around structures; also must not refuse "safe harbor refuge" to vessels.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

Review of environmental impact assessment

Are environmental assessment/impact statements required before approvals? public comment? mitigations of impacts?

Yes, Yes. Any mitigations accepted by lesser do not reduce rent.

PENNSYLVANIA

How and when were Pennsylvania boundaries for public trust lands delineated?

English monarchy to William Penn in 1681; patents from Penn then to land patents granted by Commonwealth Land Patent office. Navigable rivers and streams were held by Commonwealth. Smaller streams traditionally were conveyed to riparian property owners. Court action has declared some streams and lakes to be navigable and between 1771-1881, "public highways". All submerged lands ownership determined by normal low water. Bed of Lake Erie to the international boundary is also public.

What provisions were enacted for existing structures or uses?

All existing dams, water obstructions, encroachments which were licensed or permitted in compliance with previous regulations were grandfathered for construction and operating permit regulations. After 9/17/80 they are required to comply with operating, maintenance, monitoring regulations of the new regulation.

What is the state agency or department responsible for administering submerged lands regulation?

Department of Environmental Resources, Bureau of Dams and Waterway Management

What is the permit procedural path an applicant must follow?

Application - initial completeness review - must apply for submerged lands license agreement- proof of financial responsibility.

What are the basic design performance standards for construction of structures and uses?

Varies according to type of structure. Dams are classified by size and hazard potential. Typical standards address structural soundness, compliance with current engineering standards, safety considerations, environmental concerns.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Reports of inspections conducted by the permittee(!) are required at least annually (some every 3 months.) Certain reports must be certified by a professional engineer. The DER cooperates with Fish and Boat Commission, Game Commission, Corps of Engineers, U.S. Fish and Wildlife & U.S.EPA. CZM program conducts annual aerial monitoring. DER may require a permittee to conduct tests, studies, analyses to evaluate safety or structure if reasonable use exists. These must be under supervision of engineer approved by DER and under DER methods. Failure to provide can result in revocation of permit. DER can require owner to repair, alter or remove facility. If owner refuses, DER can take corrective action and bill owner for expenses incurred.

How are needs for public access to the waters edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

Public access to waters edge is not considered in granting permits to riparian owners. Consideration is given to public rights interference in public waters (such as navigation). Generally, no consideration of public access in water obstructions, etc. But one case involving a conversion of an old facility to a use not normally permitted required public access as compensation for loss of public trust lands for a use inconsistent with the public trust.

Are there any growth management or limitation methods employed to address secondary and cumulative impacts.

Secondary impacts are assessed during initial review, also cumulative impacts. No growth management or limitation per se.

Are environmental assessment/impact statements required before approvals? public comment? mitigation of impacts?

A detailed impacts analysis is required as part of application; also stormwater management analysis, floodplain management analysis, risk assessment, if applicable. A detailed analysis of alternative locations and minimized adverse effects is required. Mitigation plan required. Public comments solicited via public notice.

RHODE ISLAND

How and when were Rhode Island boundaries for public trust lands delineated?

Landward boundary of sea is mean high water mark along coast.

Enabling legislation 1971 created Coastal Resources Management Council. Jurisdiction of CRMC is from 3 miles offshore to 200' inland from any coastal feature. Any natural features have extended contiguous area of 200' from inland borders. Six types of water areas are defined and separate policies exist for each.

Type 1 Conservation Areas - primary policy to preserve and protect
Type 2 - Low intensity Use - maintain and restore high scenic value, provide low-intensity usage.
Type 3 - high-intensity boating - preserve, protect and enhance
Type 4 - Multipurpose Waters - maintain a balance among diverse activities
Type 5 - commercial and recreational harbors - maintain balance, promote efficient use of space, protect scenic characteristics
Type 6 - Industrial waterfronts and commercial navigation channels -
encourage and support modernization and increased commercial activity.

What provisions were enacted for existing structures or uses?

Type 1 - ultimate goal to remove and restore, but pre-existing residential boating facilities permitted under limited terms.
Type 2 - Pre-existing marinas allowed to continue within approved marina perimeters and reviewed for standards. Must submit application by 8/31/93. Will not be required to meet their capacities as 1/81.
Residential boating facilities ok if no significant adverse affect to coastal resources water dependent use or public use (adverse impacts specified) expansion prohibited.

What is the state agency or department responsible for administering submerged lands regulation?

Coastal Resources Management Commission

What is the procedural path an applicant must follow?

File application, meet goals and standards pertaining to areas and activities, meet buffer zone and setback requirements, certify compliance with state and local statutes, ordinances, etc. Obtain local permit - obtain state permit- submit preliminary determination form- submit application to CRMC (includes engineering drawings, copies of state and local permits, proof of ownership, fee)

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Field personnel from Division of Coastal Resources and Fish and Wildlife monitor. Council can issue cease and desist orders and restoration orders. Division of Enforcement of Department of Environmental Management enforces. Misdemeanor conviction can be obtained carrying fine of up to $300 or imprisonment up to 3 month- both. Each violation day is separate offense.

How are needs for public access to the water's edge met? Are easements and /or developer provision of public areas such as boat ramps and parking required?

If significant interference with public use and enjoyment is found during review process, the Council can modify or prohibit activity. Protection of existing facilities from interference by other uses, identify sites for new ramps or parking.

Are environmental assessment/impact statements required before approvals? public comment? Mitigation of impacts?

Built into program; yes public notice, yes mitigate, especially concerned with controlling runoff.

What are the basic design /performance standards for construction of structures and uses?

Setback not less than 50' from inland boundary of the coastal feature, except in critical erosion area where the setback depth no less than 30 times calculated average annual erosion rate for less than 4 dwelling units, 60 x for more than 4. Fill slope maximum grade of 30%; removal of excess or debris materials; restabilization of adjacent sites; no polluting materials; commercial or industrial docks, wharves, piers.

In meeting goals and standards may include: demonstrating need, demonstrating all ordinances, codes, and environmental considerations have been met. etc.

Must be certified & designed by RPE. Mitigate surface runoff impact; restricted excavation and grading, etc.

PUERTO RICO

How and when were Puerto Rico boundaries for public trust lands delineated?

June 20, 1972 law created Department of Natural Resources which became effective January 2, 1973. Dock and Harbor Act of Puerto

Rico of 1948 established "terrestrial maritime zone" as space touched by ebb and flow of sea, where tides are noticeable. Includes lands recovered from sea and river borders up to navigability. "Port zone" means part of the maritime zone and adjacent lands to a port delineated as harbor zones. Harbor zones limited th gh regulation approved by Administrator of EDA following public hearing. P. R. Ports Authority regulates. Public trust lands include terr l waters to 10.35 nautical miles, submerged lands under them, and maritime (inter-tidal) zone. As first described in Spanish Law of s enacted in 1880.

What provisions were enacted for existing structures or uses?

None. Regulations require inventory of existing structures, every owner or occupant must file for a new authorization.

What is the state agency or department responsible for administering submerged lands regulation?

DNR - territorial submerged maritime; Ports Authority - defined port zones as provided in 1968 Ports Law.

What is the permit procedural path an applicant must follow?

Varies with proposed activity

What are the basic design/performance standards for construction of structure and uses?

Structures approved by Permits and Regulations Administration must satisfy construction code requirements.

What are the surveillance and monitoring techniques employed to ensure compliance with tidelands regulations?

Natural Resources Ranger Corps (7/77) patrols with special attention to coastal zone (1 km inland form shoreline); rangers issue citations for violation of the laws and regulations in coastal or floodable zones.

How are needs for public access to the waters edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

Concept of riparian rights different in P.R.: Streams are considered public waters; easement 5 meters wide on either side of stream. Public access to the shore provided. A plan is being developed as a coastal management task. DNR provides ramps and fishing piers under program for sport fishing restoration.

Are any growth management or limitation methods employed to address secondary and cumulative effects?

Few municipalities have zoning districts. All major nges in land use must be reviewed and cleared by the Planning Board. Cumulative and secondary impacts are under consideration a omponent of project review.

Are environmental assessment/impact statements required before approvals? public comment opportunities offered? Mitigations of impacts?

Required of prospective developers - mitigation of natural hazards may be required as a result of hazard mitigation plans prepared by the Natural Hazards Program in DNR

SAN FRANCISCO, CALIFORNIA

How and when were San Francisco's boundaries for public trust lands delineated?

What provisions were enacted for existing structures or uses?

Grandfathers certain projects that had progressed substantially prior to the Commission's jurisdiction. Also, a provision for continuing existing uses with no substantial changes made except in accordance with new regulations.

What is the state agency or department responsible for administering submerged lands regulation?

State Lands Commission, San Francisco Bay Conservation and Development Commission has broad planning and regulatory authority. Also the California Coastal Commission.

What is the procedural path an applicant must follow?

Apply - public notice - obtain all other necessary permits.

What are the basic design/performance standards for construction of structures and uses?

Use policies specific to type of activity. Design should include visual public access.

How are needs for public access to the waters edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

Application requires info regarding access by pu quires pedestrian access to and along shoreline and beaches unless inconsistent with public safety or conflicts with use. Whe c access is conditioned, the access is permanent guaranteed via easements. Walkways, etc, should connect with public thorougl e.

Are their any growth management or limitation methods employed to address secondary and cumulative effects?

Growth and limitation handled via the Plan which has policies specific to allowed uses.

Are environmental assessment/impact statements required before approvals? public allowed opportunity to comment? Mitigations of impacts?

Environmental Determination Report and EIS for major project; only environmental determination for minor project or improvement. Yes on public comment.

SOUTH CAROLINA

How and when were South Carolina boundaries for public trust lands delineated?

English Common Law, which states that lands between ordinary high water mark and low water mark belong commonly to the sake for public use. Various legal challenge have been made and customarily the courts have upheld state ownership except increases where specific reference to the "low water mark" as a boundary was given (?).

What provisions were enacted for existing structures or uses?

Grandfathered preexisting structures and uses as of 1977 if use remains unchanged and structure remains in place. Reconstruction beyond normal maintenance allowed structures damaged beyond repair must be removed if non conforming to present regulations. Allows 1 yr for repairs to be completed.

What is the state agency or department responsible for administering submerged lands regulation?

S.C. Coastal Council in tidal lands below mean high water; state budget and Control board in nontidal areas for lands below ordinary high water.

What is the procedural path an applicant must fr

Complete application; pay fee; certified copy of plat delineating location on the baseline and setback lines on subject property; drawings, location map; plan view; public notice; affidavit of ownership control.

What are the basic design/performance standards for construction of tidelands structures and uses?
Varies according to type of structures

What are the surveillance and monitoring techniques employed to ensure compliance with state tidelands regulations?

Nine Field biologists serve as permit review and enforcement officers. Also Enforcement Chief oversees civil criminal penalties, restoration orders, and court actions. Council prosecutes cases with legal staff and appointed hearing officers. Land Water and air surveillance monitored (entire area monitored by air twice a month) Uses staff monitoring and citizen reports (toll free #) Also has PSA;s other advertising and a volunteer program to encourage and facilitate public support and assistance in reporting violations. Site visits are made prior to construction and a compliance site visit following construction.

How are needs for public access to the waters edge met? Are easement and/or developer provision of public areas such as boat ramps and parking required?

Not required for private projects. Mitigation for impacts fresh or salt water wetlands or marsh could include development and deeding of a public access /structure. 1990 Beach Management Act requires that public access be considered for many developments in beachfront areas of jurisdiction.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

Yes, contained in Developers Handbook. Also have dock management policies and permits which include subdivided property, corridor plans, standard length and definitions of waterfront property.

Are environmental assessment/ impact statements required before approvals? public comment? Mitigations of impacts?
Applications subject to 30 day public notice.

TENNESSEE VALLEY AUTHORITY

How and when were the TVA boundaries for public trust lands delineated?

The Tennessee Valley Authority Act of 1933 as amended is the legislative action which encompasses the Tennessee River and its tributaries and the Tennessee River Valley and surrounding area.

What provisions were enacted for existing structures or uses?

If an existing structure is ever substantially damaged, it may not be repaired or replaced without written approval.

What is the agency or department responsible for administering submerged lands regulation?

TVA, Division of Land and Forest Resources

What is the procedural path an applicant must follow?

Apply on joint TVA/Corps application showing plans, location, operating plan, ownership interest. Submit water quality discharge permit or statement.

What are basic design performance standards for construction of structures and uses?

Varies by structure or activity.

What are the surveillance and monitoring techniques employed to ensure compliance with regulations?

Routine inspections. Written notice of violation. Restoration or modification may be required. Legal action may be taken.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

Cumulative effects addressed for specific areas.

Are environmental assessment/impact statements required before approvals? public comment opportunities? Mitigation of impacts?

Yes, a report of anticipated effects. Uses on public comments considered.

VIRGINIA

How and when were Virginia boundaries for public trust lands delineated?

Derived from English Common Law. Vegetated wetlands means land lying between and contiguous to mean low water and an elevation above mean low water 1.5 times the mean tide range at site (where specified vegetation grows). Nonvegetated wetlands means land lying contiguous to mean low water and between mean low water and mean high water.

Are there any provisions for existing structures or uses?
No.

What is the procedural path an applicant must follow.

File application, public inspection, public hearing, must be a project which is consistent with preapproved use. Surety bond may be required.

What are the basic design performance standards for construction of structures and uses?

Contained within application packet-- specific to uses

What are the surveillance and monitoring techniques employed to ensure compliance with state tidelands regulations?

Site inspections with prior notification. If violation written notice to comply. If not cease and desist order. Sworn complaint if substantial violation may cause order to restore. Bond or letter of credit may be required to secure. Courts have power to enforce.

How are needs for public access to the waters edge met? Are easements and developer provision of public areas (such as boat ramps and parking) required?

Not addressed in Wetlands Act, subaqueous lands regulations or State Coastal Primary Sand Dune Protection Act. Opportunities for public access are identified by Department of Conservation and Recreation.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

Virginia Institute of Marine Science of College of William & Mary serves as environmental review team. They analyze all projects for potential impacts, including secondary and cumulative.

Are environmental assessment/impact statements required before approvals? public comment? Mitigations of impacts?

Required level of environmental documentation is evaluated and identified in review process. Public comment and hearings for major projects Mitigation may be required base of Virginia's review.

VIRGIN ISLANDS

How and when were the Virgin Islands boundaries for public trust lands delineated?

Virgin Islands Code - Open Shorelines Act 6/3/71. Also 'Coastal Zone Management Act, October, 1978. Open Shorelines defined as along the coastlines from the seaward line of low tide, inland 50'; or to extreme seaward boundary of natural vegetation spreading continuously inland; or to a natural barrier; whichever is shortest distance. Whether filled or dredged, boundary remains at line of vegetation. Coastal Zone means land and water areas to outer limits of territorial sea.

What provisions were enacted for existing structures or uses?

No abridgement of vested rights prior to effective date (1978). No requirement to secure approval for development if all required permits were obtained and construction has begun. Some cases were required to submit sworn affidavits that structure was in place prior to enactment.

What is the state agency or department responsible for administering submerged lands regulation?

Department of Planning and Natural Resources

What is the procedural path an applicant must follow?

File application, demonstrate legal interest in property, classification of project as major/minor, Environmental Assessment Report (if major) drawings, maps, project summary, fee, public notice.

What are the surveillance and monitoring techniques employed to ensure compliance with state regulations?

Enforcement officers and environmental specialists patrol regularly. Random inspections conducted weekly. Developers can be shut down at any time for non-compliance. Application provision allows preliminary site inspection and monitoring.

How are needs for public access to the waters edge met? Are easement and or developer provision of public areas such as boat ramps and parking required?

Beach developments and hotels and in most cases, deed a 20' easement (perpendicular accessway) for public use. Developers of PUD's required to reserve 40% for recreation and common open space. Open Shorelines Act guarantees access to water's edge and 50' inland from low tide line. Plans are to recapture access via eminent domain, easements, dedication.

Are there any growth management or limitation methods employed to address secondary and cumulative effects?

Territorial Pollution Control Act 1972 - water quality; permits under Territorial Pollutant Discharge Elimination System regulate discharge of pollutants; ambient monitoring program conducts regular waterbody monitoring. Earth change permits are issued for property clearing. An inspection is conducted.

Are environmental assessment/impact statements required before approvals? public comment? mitigations of impacts?

Yes, for major projects, Yes mitigation plans must be in place before CZM will issue a permit.

WASHINGTON

How and when were Washington boundaries for public trust lands delineated?

Public trust doctrine and equal footing doctrine - navigable waters up to mean high tide on ocean and mean high water mark on fresh waters. Washington's shoreline Management Act of 1971 defined management of shorelines including lakes over 20 acres, streams with mean annual flow over 20 cu ft per second, all marine waters, marshes, bogs and swamps associated with lakes streams and marine waters; and 200' wide shoreline landward from waters edge.

What provisions were enacted for existing structure or uses?

Grants consent to "impairment" of public rights of navigation and "corollary rights" caused by existing structure provided that these structures do not trespass or violate state statues and retaining states right to suppress or abate nuisances or pollution.

Preexisting structures grandfathered except if unlawful activity, unreasonable dormancy between project inception and SMA, not complete within 2 years after effective date of SMA. Nonconforming development may be continued if not enlarged or altered in any way that increases its nonconformity. If damaged not more than 75% replacement cost, it may be reconstructed to original configurations within 1 year of damage. If use discontinued for 12 consecutive months or for 12 months during a 2 year period, subsequent use must conform.

What is the state agency of department responsible for administering submerged lands regulation?

Department of Ecology administers SMA via shoreline Master Programs adopted by local jurisdictions.

What is the procedural path an applicant must follow?

Application reviewed for consistency with local shoreline master program, SMA and other laws. System varies according to local program. Basically application made locally, then receive final approval from Department of Ecology. Application, affidavit of public notice, site plan, vicinity maps, permit, final order must be filed with Department of Ecology and Attorney General within 8 days of local government final action. Also when applicable documents required by SEPA.

What are the basic design performance standards for construction of structures and uses?

Height limitation of 35' above average grade level on shorelines except where a master program does not prohibit and then only when overriding considerations of public interest will be served.

What are the surveillance and monitoring techniques employed to ensure compliance with state tidelands regulations?

Enforcement may include cease and desist order, civil or criminal penalties, orders to take corrective action, and permit rescission.

How are needs for public access to the water's edge met? Are easements and/or developer provision of public areas such as boat ramps and parking required?

Preferred use system. SMA established public access and recreation uses as high priority permits are conditioned to require public access. Provide standard public access signs.

Are they any growth management or limitation methods employed to address secondary and cumulative?

Growth Management Act requires local governments to identify natural resources lands and critical areas. Protection of critical areas (wetlands, fish and wildlife habitat, etc.) is required. Counties are required to prepared and adopt comprehensive plans and development regulations. Cities must also do so.

Are environmental assessment/impact statement before approvals? public comment? Mitigations of impacts?

Must comply with SEPA - public notice - mitigation may be made via "in lieu" of payments. State provides minimal guidelines. local jurisdictions adopt individual policies & procedures.

GOV. ENTITY	AGENCY	BOUNDARIES DELINEATED?	PRE-EXISTING STRUCTURES/ USES?	PROCEDURES?	STANDARDS?	MONITORING?	PUBLIC ACCESS?	GROWTH MNGMNT ?	FEES?
ALASKA	DNR, Division of Land. In some legislatively designated areas critical habitat, game refuge) cooperate with Department of Fish and Game.	Submerged Lands Act of 6/22/63. All lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line 3 geographical miles from the coast owned by the State.	"Preference right" grandfathers occupied land or development on or before date of Statehood. Basically, if State determines use to be in public interest, the applicant is allowed to lease the occupied area at fair market value.	File application w/fee, complete project questionnaire, provide development plan, proof of financial responsibility, ownership verification and current uses, determination of potential environmental risks.	Development plans are reviewed for siting, design and performance. Require a bond to be posted for development or alteration.	Inspected regularly, attempt to bring violations into compliance. No citation authority hampers ability to ensure compliance - must resort to lengthy civil court procedures.			

California	State Lands Commission. Some cases to local gov. entities with commission retaining oversight. Also, California Coastal Commission w/jurisdiction in coastal zone, San Francisco Bay Conservation and Development Commission for the bay and waterward from line of highest tidal action Department of Fish and Game, Water Resources Control Board and Regional Water Quality Control Boards; all have regulatory authority in specific areas.	At Statehood 1850, tidelands submerged lands beds of navigable waterways. Tidelands delineated as between ordinary high and ordinary low tide. Submerged lands below ordinary low water line. Boundaries often based on last natural conditions.	Not specifically addressed in statute. Existing facilities may be exempted from environmental review in limited circumstances.	Generally - notice filed with Commission; commission sends application to applicant if project is appropriate use. When application is complete, timeframes begin - 1 yr if environment impact report required, 6 mos if not. After environmental review, lease is negotiated and recommended to Commission for action. Application includes proof of interest in property (ownership) assessors parcel map, local approval, notice to adjacent property owners vicinity map, project plans, written evidence of approval from Health Dept if well or septic tank required, copy of required environmental documents, verification of all permits and approvals from public agencies, site-specific geology and soils report if site of high geologic risk, filing fee, public notice.	None at this time. Surety bonds required. Special provisions including systems safety review, may be added, usually when use of hazardous/toxic materials involved or use is inherently dangerous. There are detailed standards for oil and gas development activities.	Required by statute. Monitoring programs are stipulated in lease for all impacts identified in environmental review. Refundable deposit required to ensure construction compliance and applicants pays cost of staff/consultant to do actual site monitoring.			

Connecticut	Department of Environmental Protection, Division of Coastal Resources Management	Public trust doctrine- lands below high tide line of all navigable waters. Also Connecticut Coastal Management Act of 1979 established Coastal Management Program. Landward, the coastal boundary extends to 100' setback from inland boundary of tidal wetlands a 1000' setback from mean high water, or inland limit of the 100 yr coastal flood zone, whichever is farthest inland. Seaward boundary determined by state's jurisdiction into Long Island Sound.	Unknown	Application with usual info, review for consistency with coastal policies and guidelines, determination of adverse impacts and modification or mitigation, written certifications from Comm that no conflicts exist and measured to minimize impact have been taken.	Must comply with policies and standards of 14 identified coastal resource categories, which specify approved land uses.	Rely heavily on citizen complaints. Permit compliance is monitored. Enforcement actions include penalties halting construction, removal or corrective actions or restoration.			
DELAWARE	DNR's, Division of Water Resources, specifically wetlands and Aquatic Protection Branch.	Three mile limit recognized in Atlantic Ocean. Boundary between Delaware ad New Jersey determined by survey at statehood. In other tidal areas state owned to mean low water line and in non-tidal ownership determined case by case from deeds. Subaqueous Lands Act of 1969, and amended by statute 1986.	No legal provisions. Administratively, existing structures prior to 1969 do not require a lease until modified beyond its original dimension.	File application, location map, scaled drawing of proposed activity, certified copy of deed and survey or written permission from owner.	Spelled out in Section 3.02 of drafted regulations (not yet adopted).	Environmental Scientist coordinates uniformed enforcement officers and marine police. Routine aerial surveillance prose most beneficial.			

FLORIDA	DNR: Division of State Lands, Bureau of Submerged Lands and Preserves as staff to Board of Trustees of Internal Improvemen t Trust Fund (Governor and Cabinet)	Set forth in state constitution and Florida Administrative Code (most recently 3/27/82	grandfathered structures (ap submitted to Department prior to 9/30/84 will be brought under lease as of 1/198 or before. Unregistered grandfathered structures (revenue generating structure built before 3/10/70 or non revenue generating built before 3/27/82 will be brought under lease on 4/l/91 or earlier if sold, altered by more than 50% or altered without authorization.	Application (joint w/Corps, DER, DNR, WMD reviewed for type of activity & completeness. Site inspection; public notice; meeting to discuss modifications, mitigations, etc.;Applications includes all the usual elements plus statement for proposed erosion (turbidity) sedimentation controls. Also description of construction techniques and sequences, stabilizations methods, source and type of fill material, aerial photographs showing current conditions.	Limited criteria primarily related to size. Activities limited to water-dependent uses unless in public interest to allow exception. Stilt house residential boathouses prohibited. Road access to islands not previously existing prohibited. Dock sizes depend on shoreline ownership (10:1 rule) - may use 10 sq. ft of submerged land to every linear foot of shoreline owned. May not extend into water more than 25% of width of water at site liens. Setback 25 ; from either side of riparian lines. Tips for Dock Construction made available as recommendations.	Compliance checks done 1 year after lease authorization prior to renewal. May be done at mid-term (2 to 3 years) but not priority. Local resolutions attempted first.			

GUAM	Bureau of Planning administers coastal managemen t program. Seashore planning act created the Territorial Seashore Protection Commission to prescribe plan for permitting and regulation.	Seashore Protection Act of 1974 defines "seashore reserve" as land and water seaward to the 10 fathom contour, except villages where residences constructed along shoreline prior to Act's effective date, and inland to the nearer of: from mean high water for a horizontal distance of 10 meters or from mean high water to the inland edge of the nearest public ROW.	See above. Grandfathers everything for which building permit was issued prior to effective date, provided no substantial changes (not in accordance w) new requirements) are made.	Apply, public hearing, review for federal consistency, performance bond. Guam EPA issues Water Quality Certificate and requires Environmental Protection Plan. Clearance may be required from Historic Preservation Officer. Also a series of land use and building permits required from Territorial Land Use Commission, the Development Review Committee, and Department of Public Works		Unable to ascertain. There is a restoration provision in Wetlands Rules and Regulations.	This is addressed in the Seashore Protection Act as a provision of the Seashore Reserve Plan; however, we have no copy of this plan.		
ILLINOIS	Dept. of Transportati on, Division of Water Resources Bureau of Resource Managemen t.	Navigable lakes an streams at statehood (1818) plus waterways created and dedicated to public use. Original surveys terminated a margin of lakes and streams show by fractional sections and meander lines (natural boundaries affected by erosion, accretion) Draining and reclamation became prohibited in 1911.	Joint app with Corps of Engineers and IEPA. Must have Corps 404 or Section 10 permit, a state rivers,lakes, and streams permit and state water quality certification. Review by Fish and Wildlife. Permit is a revokable license.	Landfills and private reclamation prohibited. STandards for dredging and filling require material analysis If initial review shows possibility of negative impacts, impact analysis & mitigation plans are required. Public notice.	Inspections during construction. Hydrographic surveys may be required to monitor sufficiency of beach nourishment to prevent erosion. Periodic aerial photography.	Inspections during construction. Hydrographic surveys may be required to monitor sufficiency of beach nourishment to prevent erosion. Periodic aerial photography.	Permits conditioned to provide public access . To facilitate public access and use, public agencies are authorized to place landfills (?) to develop parks , public beaches, and recreational or commercial harbors.		

LOUISIANA	State Land Office under Depart of Administration) responsible for titling and managing, except for mineral leasing, ROW;s, surface leases and permits and leases to riparian owners. Dept. of Wildlife & Fisheries responsible for leasing for oyster/shellfish culture. Also grant leases for commercial dredging/shell removal. Also manage a program for regulation of designated "scenic streams" Coastal Mgt Division of the Department of Natural Resources handles CZM program w/ Corps of	In 1812 (Statehood) "Equal Footing Doctrine" State gained title to all naturally navigable bodies of water. Marsh/swamplands were patented to private companies/individuals (except for navigable waterbottoms) Validity of patents has been questioned since Phillips decision in Mississippi, but upheld to date. State owned beds and bottoms of all naturally navigable streams, bayous, rivers up to mean low water and lakes, bay areas to the mean high water . No demarcated line of public vs. private ownership.	None - & this has caused problems	Written notification to commissioner of Div. of Adm apply to parish governing authority, apply to Corps of 'Engineers, publish notice in official parish journal, pay fees, Application must include certified copy of deed or certified copy of instrument which shows applicant's interest (lease, etc) in the property and 2 owners permission for project. Also certified survey plant show old and present shoreline and limits of reclamation; plan view of activity site-section view. of activity site. Application must be followed by either a boundary agreement (fixes definitive boundary between reclaimed area & waterbottoms) or lease agreement (operates/maintains encroachment) Yes, public notice and comments, negative responses may cause public hearing, use mitigation through assessments of secondary and cumulative impacts through guiding development oz other areas. Development	Reclaimed land must be raised to minimum height of 6" above mean high water and stabilized along newly created bank or shore by masonry, concrete mats, raprap, sheet piling bulkheads or similar "structures (wharves, piers) are assessed 2cents per sq feet of stat-owned waterbottom enclosed or utilized by the structure, including adjacent & contiguous water in 10' increments. Some design standards may be imposed by local planning commissions.	Review permit applications submitted to other agencies, routine spot inspections; encourage public participation in monitoring public lands. Other regulatory agencies have field inspectors.	Drainage, public navigation,, fisheries in surrounding area not to be impeded. Public access shall not be died unless it unreasonably interferes with Lessee operations. All uses should be conducted to permit multiple uses including recreation.	In evaluation of compliance with "Coastal Use Guidelines" as administered by DNR at time of application) Specific adverse affects to avoid cited in Guideline I.7 pg 53 of La Coastal Resource Program Final EIS	

MAINE	Bureau of Public Lands: is agency of Department of Conservation. Interacts with State Planning Office's Coastal Program, Dept of Environmental Protection Marine Resources, Fisheries Wildlife, Trans, Economic Development, Land Use Regulation Commission.	English common law, at statehood. Mgt legislation in 1975 via submerged Lands Act. Boundaries - land from mean low water mark or a maximum of 1,650' seaward to the mean high water mark whichever is closer to the mean highwater mark, out to the seaward boundary of coastal waters. And all land below the mean low water mark of tidal rivers upstream to the farthest natural reaches of the tide. And land below the natural mean low water of ponds less 10 acres. And river beds of international boundary rivers.	Extended constructive easements for 30 years to owners subject to no significant alteration of the structure or use. Registration program for these beginning 1/1/91 and completed by 12/31/95.	Most do not require formal statement, but specific studies or modifications may be required. Public comments taken by all agencies involved. Mitigations at review.		Possible site visit. Written notification of noncompliance. If do not comply by deadline, structure may be ordered removed. Legal action will follow.	Major consideration during review process. Statutes allow negotiation to protect or enhance public access. Also covers mitigation of other impacts.	Review attempts to assess cumulative impacts and reconcile discrepancies.	

MASS.	Department of Environmental Protection Waterways Regulation Program	Ownership in tidelands and great ponds established by Colonial ordinance 1641 and 1647. These confirmed private ownership to low water, subject to fishing fowling and navigation easements. State owns land below low water - can be created into private only by legislature, a grant meeting strict standards and for a proper public purpose. Scope of easements has been subjected to litigation.	Have required tidelands licenses since 1866. 1. No license required for continuing use of lawfully filled private tidelands if there have been no structural alteration or change in use since 1/1/84 or in violation of an expressed condition of the grant or license authorizing the filling. . Amnesty period of 3 yrs (ends in 10/93) for licensing unlicensed work in existence since before 1/1/84. 3. "interim approval" (30 yrs; non-transferrable) can be given to certain small water-dependent projects which are accessories to single family residences. (For instance, a pier for personal use). This postponement of licensing allows a homeowner to avoid the expense of professionally stamped plans.	1. Pre-application consultation 2. Filing &Completion of application (set of plans fee, statement of public purpose, public comment 3. Plan Content & specification (maps, etc.) 4. Information on other state and local approvals (list of environmental regulatory programs, copy of environmental notification form and certificate of secretary certification that project does not require municipal approvals, certification from city of license application. 6. Application automatically expires after 2 years if deemed incomplete.		Site visits at time of application and at completion of project. annual fee charged to non-water-dependent projects funds inspectors. Local harbormasters also report problems, monitor public notices required by MEPA, Corps of Engineers, etc. which lists projects that may require licenses.	Through municipalities via municipal harbor plans. (Brand new program) Licenses conditioned upon provision of public access especially for non water-dependent uses. Access to flats is limited to fishing, fowling and navigation. In present or former submerged lands, more extensive access requirements are imposed.		

MICHIGAN		Northwest Ordinance of 1787 declared navigable waters, etc., held in trust for use of people. Michigan acquired this trust when it entered the Union in 1837. Great Lakes Submerged Lands Act 1955 codified common law and public trust doctrine as applies to Great Lakes bottomlands and waters. Defined by "lying below and lakeward of natural ordinary high-water mark" but excepts swamp land grants or rights acquired through natural and grants or rights acquired thru natural accretions. High water marks further specifically delineated for each Lake.	None. All past fills or occupancies are considered trespasses against public trust, title and are required to obtain authorization to continue. Courts have held that adverse possession does not run against the state's perpetual duty to oversee public trust lands.	Application including survey and description of subject and adjacent property, title abstract, and tax history. Approvals form federal agencies, waterways commission, local governments; fees	May be required after preliminary review of application. Public notice made to affect parties. Mitigation required before approval. commercial piers, etc are of similar size to other in vicinity and allow for free flow of water. Seawalls, etc must be constructed of materials free of pollutants, wastemetals, debris or organic materials and must not be more than 300' long and in an area where similar structures already exist. Backfill not to exceed average of cu cu per running foot along shoreline and max of 300 cu yds. Low profile, not more than 1' above water level (see more in submerged lands act pp 14-15.	Field officers conduct inspection before issuing permit. Also final inspection. Enforcement action may be brought for noncompliance.	Must not substantiall y affect public use or impair public trust. Contains provision for public access (only in conveyance to local government s) Will not interfere with public navigation rights, is on an overall beneficial nature		

MISSISSIPPI	Mississippi Department of Wildlife Fisheries and Parks/ Bureau of Marine Resources is responsible for wetlands. Secretary if State leases trust lands.	Coastal Wetlands Law 7/1/73 - publicly owned lands subject to ebb and flow of the tide, below the watermark of ordinary high tide; publicly owned accretions above watermark of ordinary high tide; publicly owned submerged waterbottoms below the watermark or ordinary high tide. Includes flora and fauna. Extends seaward to state boundary. States claims reinforced per Phillips supreme court decision	Restricted to existing uses occurring on or adjacent to upland sites or historical uses in water ares such as dredge material disposal areas, shellfish growing areas, navigation channels, etc.	Files "joint application" with Corps of Engineers, BMR, and DEQ. Application includes description , schedule, cost, purpose, public benefits, public use, plan view names of adjacent property owners. Also lists of approvals received from Bureau of Pollution Control, BMR, Corps of Engineers, City/ County. Also to be attached are vicinity maps, authorized agent environmental assessment, and justification for any request of variance in guidelines of Coastal Wetlands Use Plan.		via fly overs, site inspections.	Urban waterfront plans and sand beach plans address access needs and improveme nts. Access constructio n projects (boat ramps/fishin g piers, parking lots) have been funded through CZMA Section 306A Low Cost Constructio n Program.		

NEW HAMPSHIRE		Mean high tide lines marks landward limit of public ownership. Dates back to English Common law principles.Regulation of dredging, filling, placement of structure in public waters is carried out by N.H. Wetlands Board (authorized by statute and comprised of representatives of state agencies and municipal officials).	Structures in place prior to enactment of regulatory program (6/22/67) are grandfathered.	No procedure for submerged lands leasing. Process for wetlands permits, mooring permits or aquaculture permits. Only when a Wetlands Board permit is required. Direct filling of submerged lands/wetlands is not allowed unless project is deemed to be in the "public good". In these projects, mitigation is usually required as determined on case by case basis.	in wetlands regs	Environmental inspectors (2) monitor projects which impact wetlands and submerged lands.	Open N.H. coast mostly public and managed for recreation - no developer provisions required. Along estuarine shoreline, much frontage is privately owned. Access areas for boating, picnicking are limited in size.		

NEW JERSEY	Dept Env. Prot and Energy Land Use Regulation Program Tidelands Managemen t Program is part of LURP- w/ Tidelands Resource Council).	English common law- PTD. mean high tide, includes filled lands. Mean high water based upon theoretical 18.6 year tide. Tidelands delineation and mapping now being conducted. Right now determination made case by case. Waterfront Development Law regulates construction or development up to 1st property line, public road or railroad, provided it is between 100 -500 feet from waterway. Coastal Area Facility Review Act regulates location design and construction in coastal region. Wetlands Act (1970) regulates activities on coastal wetlands.	CAFRA grants exemption to facilities that were in place or under construction on or before 9/19/73. Wetlands ACt exempts permitting for existing prior to 1/1/81 as long as repairs or renovations do not increase size and structure is solely residential or for use of pleasure vessels.	Optional pre-application conference - application -public comments, application completed and reviewed option public hearing. CAFRA regulations add mandatory public hearing EIS.	Design guidelines for public access have been adopted . These are specific to type of structure or use. Standards are also imposed during review process location, usage and resource restrictions. N.J. has adopted a 3 step process for review: location, use and resource policies are defined for each type. A proposal must satisfy each set of policies.	Site inspections are provided for in permit. modifications can be required permits suspended or revoked.	Each shorefront developmen t proposal must address 12 policies relating to access, visual and physical. Plan must identify areas appropriate for public access. EAsements may be required. Developer provision f linear walkways is required. Parking must be provided in publicly funded projects/	Mitigation plans required for wetlands . Growth managem ent measures provided through 3 step review process. The EIS for wetlands projects must analyze indirect effects of proposed activity on adjacent and noncontig uous areas.	

NEW YORK	Department of State - Coastal Managemen t Program Department of Environment al Conservatio n - Tidal Wetlands Coastal Erosion Hazards Areas Act, State Environment al Quality Review Act & Stream Protection Act. Office of General Services - Art 6 of Public Lands dealing with grants of land under water.	Derived from English Common Law, public trust doctrine. New York presumptively holds title to "land under water", that is below the high water mark on rivers & tidal water bodies. Also below low water mark on lakes and ponds. Historic boundary delineation of public trust lands has been mean high water mark. New York has adopted the line of vegetation test as the means to locate this boundary. Exceptions to boundary in Nassau and Suffolk Counties where colonial patents conveyed ownership to towns.	Numerous, 2 examples. One in the case of coastal erosion, grandfathers any development or activities which had final approval from appropriate local government prior to date of regulations. Another from Tidal Wetlands Act grandfathers any structure lawfully in existence as of effective date of regulation. An further states that the new restrictions will not be deemed to require a variance for repair, restoration or rebuilding but that such activity may be subject to the new permitting requirements. It further stipulates a provision that repair, etc, activities to existing structures must not increase non compliance with regulations.	Certifies that proposed action is consistent with coastal policies of the Coastal Management Program. File "Consistency Assessment Form". Completes federal agency app. Certifies that proposed action is consistent with coastal policies of the Coastal Management Program. File "Consistency Assessment Form". Completes federal agency app.	1. Min. setback of structures 100 sq ft (ex boardwalks, docks, bulkheads, piers, etc.) is 75' landward from the most landward edge. Within city of N.Y., this is 30'. In areas where existing structures are substantially the same type as proposed and are within 500' of proposed, the average setback may be used. 2. Min. setback for sewage disposal septic tank, etc. landward. 3. Min. of 2' of soil between bottom of any cesspool, etc, and seasonal high ground water level. 4. No more than 20% of adjacent area can be covered by existing or new structures or impervious materials. 6. Min. lot area 20,000 sq. ft - 40,000 s. ft. 6. Clustering of multi-family dwellings allowed to encourage maintenance of undeveloped areas. 7. Min. setback of roads, parking lots, etc over 500 saft shall be 75' from tidal wetland. 8. Surface water runoff shall be prevented by installing dry wells, retnetion basins, etc.	Periodic inspections by conservation officers. Site visits responding to complaints from citizens, environmental groups, local governments, or state agency staff.	Two policies of coastal managemen t program directly address public access. Policy guidelines are used in project review process. Program encourages mixed use areas and multiple use of facilities. Existing access shall not e reduced, nor shall possibility of increasing access be eliminated Projects evaluated based o level of estimated public use, also whether level of access causes a degree of use exceeding physical capacity of the facility.	Need to do so has resulted in program changes this year with Section 309 grant changes include preparatio n and adoption of regional coastal managem ent programs, improvem ents in local governme nt managem ent of coastal resources and centralizin g the determina tion of consistenc y of projects and activities in the coastal area with state coastal policies.	

NORTH CAROLINA	Coastal Resources Commission/ Department of Environment Health and Natural Resources Division of Coastal Mgmt & Div. of Marine Fisheries (for ownership issues and public access rights)	English common law, PTD. Case law further defined as "creek or river wide and deep enough for sea vessels to navigate and without obstruction of navigation from mouth to ocean and the limit of whose waters not higher nor as high as the flowing of the tides upon sea coasts as navigable stream within general rule" Where the tide ebbs and flows between the high and low water is public trust but may be subject to a direct special legislative grant (to the farthest influx of sea water). NC statute "mean high water mark", but also provides that land raised above high water mark as result of pier, etc. vests in property owner. Also landowner may gain title to filled shorelines by 1) reclamation of eroded land 2) land raised within bounds of state conveyance 3) land raised under lawful permit 4) land raised through deposit of spoil from state/fed navigation projects. Coastal Area Management Act of 1974 created Coastal Resources Commission to guide development.	Statute claimed lands under navigable waters as of 1965. Lands filled and raised above mean high water between statehood and 1965 under permit would not be subject to public trust rights. Supreme Court voided deeds and grants issued by sate on submerged lands. Also General Permits for development in AEC (areas of environment concern) prior to 3/1/78 are issued,provided they had legal permits or had applied for legal permits and were accepted. If pending permits expired, regular CAMA permit required.	File application and fee. Field report prepared by Department following site inspection. This report is circulated to various agencies, recommendations are made ad limitations may be imposed as conditions. Public comment yes, mitigation thru planning, site selection, development standards and creation/restoration of coastal resources. Public notice - Field REport and site inspection	Waters are classified according to suitable uses. National Pollution Discharge Elimination System permit required for discharging into waters. Waters designated as "Outstanding Resource Waters" receive special protection. In these development within 575' of mean highwater must meet low density requirements (25% built-upon area adjacent to "commercial use waters & 30% adjacent to others.) No new marinas in ORWs unless fewer than 30 slips, no boats larger than 21' and no boats with heads. Other standards set by local jurisdictions.	Site inspection at commencement. Notices of violation issued,cease and desist order, civil penalties assessed, restoration may be required.	Beach Access Program uses funds to acquire lands to benefit public with priority given to land unsuitable for developmen t. Include parking ares, pedestrian access and walkways, restrooms and other public beach access support facilities.	Mitigation policy in statutory authority. Benefit the public interest must outweigh long range adverse affects.	

OHIO	Apply with Army Corps of Engineers for any work in Lake Erie. Corps of Engineers permit.	Since 1917. Claims title to public trust lands and waters of Lake Erie through Statehood (1803) based upon equal footing doctrine. Laws of Ohio uses "natural shoreline" as delineation of upland ownership and submerged lands.	Environmental impact assessment requirement waived for "artificially filled areas" or "filled" portion of any area existing as of 3/15/89.		No determination of the engineering quality of the project is made. Office of the Chief Engineer reviews shore erosion projects, but only makes comments re the ability of structure to protect shoreline.	Inspections done periodically; aerial photographs every 3 years for review.	Evaluation of present/prospective recreational uses. Provision for public access may be condition of lease depending on historic use patterns and suitability of leased site for recreation uses. Lease is subject to public's right to navigation in around structures; also must not refuse "safe harbor refuge" to vessels.	Review of environmental impact assessment	

PENN.	Department of Environmental Resources, Bureau on Dams and Waterway Management	English to Wm Penn in 1681; Penn to land patents; granted by Commonwealth Land Patent office. Navigable rivers and streams were held by Commonwealth. Smaller streams traditionally were conveyed to riparian property owners. Court action has declared some streams and lakes to be navigable and between 1771-1881, "public highways". All submerged lands ownership determined by normal low water. Bed of Lake Erie to the international boundary is also public	Also a provision in this section allows for a permit to be required if such a wavered structure/activity has a significant effect upon safety or the protection of life, health, property, or the environment. Further review shows what all existing dams, water obstructions encroachment which were licensed or permitted in compliance with previous regulations were grandfathered for construction and operating permit regulations. After 9/17/80 they are required to comply with operating, maintenance, monitoring regulations of the new regulation.	Application - initial completeness review - must apply for submerged lands license agreement- proof of financial responsibility.	Varies according to type of structure. Dames are classified by size and hazard potential. Typical standards address structural sounds, compliance with current engineering standards, safety considerations, environmental concerns.	Reports of inspections conducted by the permittee(!) are required at least annually (some every 3 months.) Certain reports must be certified by an RPE. The DER cooperated with Fish and Boat Commission, Game Commission,Corps of Engineers, U.S. Fish and Wildlife &US.EPA. CZM program conducts annual aerial monitoring. DER may require a permittee to conduct tests, studies, analyses to evaluate safety or structure if reasonable use exists. These must be under supervision of RPE approved by DER and under DER methods. Failure to provide can result in revocation of permit. DER can require owner to repair, alter or remove facility. If owner refuses, DER can If significant interference with pubic use and enjoyment is found during review process,		Secondary impacts ar assessed during initial review, also cumulative impacts. No growth management or limitation per se.	

RHODE ISLAND	CRMC	Landward boundary of sea is mean high water mark along coast. Enabling legislation 1971 created Coastal Resources Management Council. Jurisdiction of CRMC is from 3 miles offshore to 200' inland from any coastal feature. Any natural features have extended contiguous area of 200' from inland borders. Six types of water areas are defined and separate policies exist for each. Type 1 Conservation Areas - primary to preserve and protect Type 2 Low intensity Use - maintain and restore high scenic value, provide low-intensity usage. Type 3 high-intensity boating - preserve, protect and enhance Type 4 Multipurpose Waters - maintain a balance among diverse activities Type 5 commercial and recreational harbors - maintain balance, promote efficient use of space, protect scenic characteristics Type 6 Industrial waterfronts and commercial navigation channels - encourage and support modernization and increased commercial activity.	Type 1 - ultimate goal to remove and restore, but pre-existing residential boating facilities permitted under limited terms.Type 2 - Pre-existing marinas allowed to continue within approved marina perimeters and reviewed for standards. Must submit application by 8/31/93. Will not be required to meet their capacities as 1/81. Residential boating facilities ok if no significant adverse affect to coastal resources water dependent use or public use (adverse impacts specified) expansion prohibited.	File application, meet goals and standards pertaining to areas an activities, meet buffer zone and setback requirements, certify compliance with state and local statutes, ordinances, etc. Obtain local permit - obtain state permit- submit preliminary determination form- submit application to CRMC (include engineering drawings, copies of state and local permits, proof of ownership, fee)	Setback not less than 60" from inland boundary of the coastal feature, except in critical erosion area where the setback depth no less than 30 times calculated average annual erosion rate for less than 4 dwelling units, 60 x for more than 4. Fill slope maximum grade of 30%; removal of excess or debris materials,; restabilization of adjacent sites; no polluting materials; commercial or industrial docks, wharves, piers. In meeting goals and standards may include demonstrating need, demonstrating all ordinances codes, and environmental considerations have been met. etc. must be certified & designed by RPE. Mitigate surface runoff impact; restricted excaion and grading, etc. etc. Section 300 - Coastal Resources Mgt Program.	Natural Resources Ranger Corps (7/77) patrols with special attention to coastal zone (1 km inland form shoreline); rangers issue citations for violation of the laws and regulations in coastal or floodable zones.	Concept of riparian right s is difference in P.R. Streams are considered public waters; easement 5 meters wide on either side of stream. Public acce ss to the shore provided. A plan is being developed as a coastal managemen t task. DNR provides ramps and fishing piers under program for sport fishing restoration.	As stated above, a public access plan is being prepared. Few municipali ties have zoning districts. Constructi on of raps is not required. All major changes in land use must be reviewed and cleared by the Planning Board. Cumulativ e and secondary impacts are under considerat ion as a componen t of project review.	

PUERTO RICO	DNR - territorial submerged maritime ; Ports Authority - defined port zones as provided in 1968 Ports Law.	June,20, 1972 law crated DNR which became effective January 2, 1973. To place in force program for use and conservation of natural resources or Puerto Rico. Dock and Harbor Act of Puerto Rico of 1948 established "terrestrial maritime zone" as space touched by ebb and flow of sea, where tides are noticeable. Includes lands recovered from sea and river borders up to navigability. "Port zone" means part of the maritime zone and adjacent lands to a port delineated as harbor zones. Harbor zones limited through regulation approved by Adm.of EDA following public hearing. P. R. Ports Authority regulates. Public trust lands include territorial waters to 10.35 nautical miles, submerged lands under them, and maritime (inter-tidal) zone. As first described in Spanish Law of Ports enacted in 1880 and extended to P.R. in by royal decree.	Non. Regulations require inventory of existing structures, every owner or occupant must file for a new authorization.	Structures approved by Permits and Regulations Administration must satisfy construction code requirements.						

SAN FRANCISCO	State Lands Commission, San Francisco Bay Conservatio n & Developmen t Commission has broad planning and regulatory authority. Also the California Coastal Commission.	PTD - Then McAteer-Petris Act of 1965 and numerous subsequent amendments through 1991. contains declaration of public interest in the Bay including the Bay and all sloughs and marshlands between mean high and mean low tide; tidelands (between mean high and mean low) and submerged lands (below mean low tide) And shoreline between shoreline and 100' landward.		Apply - public notice -obtain all other necessary permits.	Use policies specific to type of activity. Design should include visual public access. (note to me - use these in appendix for example)	Undefined techniques. Cease and desist orders may be issued, public hearing held, injunctions filed, civil penalties assessed.	(NOTE TO ME) add pictures of Pier 39) Application requires info regarding access by public. Requires pedestrian access to and along shoreline and beaches unless inconsistent with public safety or conflicts with use. When public access is conditioned , the access is permanent guaranteed vial easements. Walkways, etc, should connect with public thoroughfar e.	Growth and limitation handled vial the Plan which has policies specific to allowed uses.	

SOUTH CAROLINA	S.C. Coastal Council in tidal lands below mean high water; state budget and Control Board in nontidal areas for lands below ordinary high water.	English Common Law, 1787 prima facie rule,which states that lands between ordinary high water mark and low water mark belong commonly to the sate for public use. Various legal challenge have been made and customarily the courts have upheld state ownership except incases where specific reference to the "low water mark" as a boundary was given(?).	Grandfathered preexisting structures and uses as of 1977 if use remains unchanged and structure remains in place. Reconstruction beyond normal maintenance not allowed structures damaged beyond repair must be removed if non conforming to present regulations. Allows 1 yr for repairs to be completed.	Complete application; pay fee; certified copy of plat delineating location on the baseline and setback lines on subject property; drawings, location map; plan view; public notice; affidavit of ownership control.		9 Filed biologists serve as permit review and enforcement officers. Also Enforcement Chief oversees civil criminal penalties, restoration orders, and court actions. Council prosecutes cases with legal staff and appointed hearing officers. Land Water and air surveillance monitored (entire area monitory by air twice a month) Uses staff monitoring and citizen reports (toll free #) Also has PSA;s other advertising and a volunteer watch program to encourage and facilitate public support and assistance in reporting violations. Site visits are made prior to construction and a compliance site visit following construction.	Not required for private projects. Mitigation for impacts fresh or salt water wetlands or marsh could include developmen t and deeding of a public accessary/s tructure. 1990 Beach Managemen t Act requires that pubic access be considered for may developmen ts in beachfront areas of jurisdiction.	Yes, contained in Developer s Handbook for freshwate r. Also have dock managem ent policies andpermit s which include subdivided property, corridor plans, minimal sizing and constructi on standard length and definitions of waterfront property.	

TENNESSEE VALLEY AUTHORITY	TVA, Division of Land and Forest Resources		If an existing structure is ever substantially damaged, it may not be repaired or replaced without written approval.	Apply on joint TVA/Corps application showing plans, location, operating plan, ownership interest. Submit water quality discharge permit or statement.	Varies by structure or activity.	Routine inspections. Written notice of violation. Restoration or modification may be required. Legal action may be taken.		Cumulativ e effects addressed for Wheeler Lake. (get more info here)	
VIRGINIA	VA Marine Resources Commission	Derived from English Common Lay. Vegetated wetlands means land lying between and contiguous to mean low water and an elevation above mean low water 1.5 times the mean tide range at site sphere (specified vegetation grows). Nonvegetated wetlands means land lying contiguous to mean low water and between mean low water and mean high water.		File application with usual stuff, public inspection, pubic hearing, must be a project which is consistent wit h preapproved use. Surety bond may be required.		Site inspections with prior notification. If violation written notice to comply. If o not cease and desist order. Sworn complaint if substantial violation may cause order to restore. Bond or letter of credit may be required to secure. Courts have power to enforce.	Not addressed in Wetlands ACt, subaqueous lands regulations or State Coastal Primary San Due Protection Act. Opportuniti es for public access are identified by Department of Conservatio n and Recreation.	Virginia Institute of Marine Science of College of W & M serves as environme ntal review team.. They analyze all projects for potential impacts, including secondary and cumulativ e.	

VIRGIN ISLANDS	Department of Planning and Natural Resources	Virgin Islands Code - Open Shorelines Act 6/3/71. Also Coastal Zone Management Act, October, 1978. Open Shorelines defined as along the coastlines from the seaward line of low tide, inland 50'; or to extreme seaward boundary of natural vegetation spreading continuously inland; or to a natural barrier; whichever is shortest distance. Whether filled or dredged, boundary remains @ line of vegetation. Coastal Zone means land and water areas to outer limits of territorial sea.	No abridgement of vested rights prior to effective date (1978). No requirement to secure approval for development if all required permits were obtained and construction has begun. Some cases were required to submit sworn affidavits that structure was in place prior to enactment.	File application, demonstrate legal interest in property, classification of project as major/minor, Environmental Assessment Report (if major) drawings, maps, project summary, fee, public notice.		Enforcement officers and environmental specialists patrol regularly. Random inspections conducted weekly. Developers can be shut down at any time for non-compliance. Application provision allows preliminary site inspection and monitoring.	Beach developments and hotels and in most cases, deed a 20' easement (perpendicular accessway) for public use. Developers of PUD's required to reserve 40% for recreation and common open space. Open shorelines Act guarantees access to water's edge and 50' inland from low tide line. Plans are to recapture access via eminent domain, easements, dedication.	Territorial Pollution Control Act 1972 - water quality; permits under Territorial Pollutant Discharge Elimination System regulate discharge of pollutants; ambient monitoring program conducts regular waterbody monitoring. Earth change permits are issued for property clearing. An inspection is conducted.	

Resources

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Documents, policies, and public information publications from the following state agencies and entities have been reviewed.

* State of Alaska, Department of Natural Resources, Division of Land
* State of California, State Lands Commission
* The University of Connecticut, College of Agricultural and Natural Resources, Coastal Resource Development Sea Grant Marine Advisory Program
* State of Delaware, Department of Natural Resources
* State of Florida Department of Environmental Regulation
* Government of Guam, Bureau of Planning
* Illinois Department of Transportation, Division of Water Resources
* State of Louisiana, State Land Office
* State of Maine, Department of Conservation
* The Commonwealth of Massachusetts, Executive Office of Environmental Affairs
* State of Mississippi Bureau of Marine Resources
* Michigan Department of Natural Resources
* State of New Hampshire, Office of State Planning
* State of New York, Department of State
* State of New Jersey, Department of Environmental Protection
* State of North Carolina, Department of Environment, Health, and Natural Resources
* Ohio, Department of Natural Resources
* Commonwealth of Pennsylvania, Department of Environmental Resources
* Departamento de Recursos Naturales, Puerto Rico
* State of California, San Francisco Bay Conservation and Development Commission

* South Carolina Council
* The State of Rhode Island Coastal Resources Management Council
* Commonwealth of Virginia, Council on the Environment
* Government of the United States Virgin Islands
* Washington State Department of Ecology
* "Oil and Gas Leasing Regulations" Bureau of Land Management, Code of Federal Regulations, Title 43, Parts 3000, 3100-3150 as of September 15, 1988.
* "Abandoned Shipwreck Act Guidelines", Department of the Interior National Park Service, CFR Vol.55 No.233. December 4, 1990.
* "Permitting Procedures for Private Floating Docks" - Mobile District, Corps of Engineers, August 13, 1987.
* "Shoreline Management at Civil Works Projects" - U.S. Army Corps of Engineers, October 31, 1990.
* Tennessee Valley Authority - Approval of Construction in the Tennessee River System and Regulations of Structures, February 15, 1978.

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"Preparation for User Fee Schedule in North Carolina", by P. A. Wohciechowski, Director, Submerged Lands Program, North Carolina Division of Marine Fisheries.

"Texas Preparation for Coastal Zone Management Act Approval", by Salley Davenport.

"Politics and the Public Trust Doctrine", by David Slade, General Counsel Coastal States Organization.

"Submerged Lands In the Province of Ontario", Ministry of Natural Resources.

"Limits of Riparian Rights", by George M. Cole, PE, PLS, Florida Engineering Services Corporation.

"Washington State's System of Harbor Areas", by Ann J. Morgan, Manager, Division of Aquatic Lands, Washington State Department of Natural Resources.

"Protection and Preservation of Shipwrecks on State Submerged Lands" by Michele C. Aubry, National Park Service.

"Beach Access in the 1990's", by Allen Jernigan, Special Deputy Attorney General, North Carolina Department of Justice.

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"Saving Our Bays, Sounds, and the Great Lakes: The National Agenda", by Save the Bay, Inc., Providence Rhode Island.

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Zarafonitis,Beth. "Access Study Finds Docks Questionable, Marinas OK", **Soundings - Trade Only**, June 1991.

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