AD-A063 905 SCIENCE APPLICATIONS INC LA JOLLA CA ENVIRONMENTAL S--ETC F/G 13/12
EVALUATION OF LAWS AND REGULATIONS IMPACTING THE LAND USE OF DR--ETC(U)
SEP 78 J COLE, M BRAINARD DACW39-77-C-0026

UNCLASSIFIED WES-TR-D-78-55 NL

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LEVEL II

DREDGED MATERIAL RESEARCH PROGRAM

TECHNICAL REPORT D-78-45

EVALUATION OF LAWS AND REGULATIONS IMPACTING THE LAND USE OF DREDGED MATERIAL CONTAINMENT AREAS

by

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DDC
REPRODUCE

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31 October 1978

SUBJECT: Transmittal of Technical Report D-78-55

TO: All Report Recipients

1. The technical report transmitted herewith represents the results of one of several research efforts (work units) undertaken as part of Task 5D, Disposal Area Land Use Concepts, of the Corps of Engineers' Dredged Material Research Program (DMRP). The objective of Task 5D, part of the Productive Uses Project (PUP), was to obtain information to facilitate planning and implementation of concepts for the ultimate productive use of dredged material containment areas.

2. Because of constraints on the open-water disposal of dredged material, the Corps of Engineers has had to resort more and more to land disposal. Land for disposal activities is becoming scarce and the problem becomes more acute with the need for selecting each new disposal area. Attention, therefore, can be profitably and justifiably directed toward identifying disposal concepts that enhance rather than degrade available land.

3. Some DMRP work units under other tasks were designed to develop improved disposal facility operation and management procedures as well as develop techniques for the reclamation of potentially valuable materials. Both objectives would increase disposal area life expectancy as well as enhance aesthetic and environmental characteristics. However, all sites will eventually be filled and the total picture would be incomplete without considering the concepts for the productive uses of the created land. To this end, most of the problems associated with the land use of dredged material containment areas relate to a planning rather than an engineering function. This particular research effort was one of five work units designed to assess the economic, technical, environmental, institutional, legal, and social incentives and constraints for the development of a rational basis for site selection, the ultimate land use, and the management of the created land. The primary purpose of this study was to identify and evaluate the legal framework within which the Corps of Engineers must work to implement productive land use concepts on dredged material containment sites.

4. A survey approach was used in which Federal, state, and local laws, regulations, and ordinances that could significantly impact proposed uses of dredged material containment areas were assembled for analysis. This

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survey included all Federal legislation, legislation from 16 states, and ordinances and regulations from selected cities and counties within the 16 states. The study was designed to assess not only the present status but also the future legislation trends that might be expected to affect the land use of dredged material containment areas.

5. This report presents a summary of existing land use legislation impacting land areas. With regard to the contents of the report, a general caution is urged for planners and engineers engaged in productive use planning for dredged material containment areas that have been filled to capacity. This caution applies primarily to the portion of the report that addresses Federal legislation. The descriptions of most items of Federal legislation will be found to be excessively detailed by some readers and it is felt they do not adequately establish identifiable connections between each legislative citation and the concept of disposal-productive uses. The discussions of institutional arrangements and trends in the law are also considered to lack specific connection with the disposal-productive uses concept. The reader is urged to augment his reading with Technical Report DS-78-20, the synthesis of research accomplished under Task 5D: Disposal Area Land Use Concepts, which develops and elaborates on the connection between a select number of significant pieces of legislation and disposal-productive uses.

JOHN L. CANNON
Colonel, Corps of Engineers
Commander and Director

(18) WES

Unclassified

SECURITY CLASSIFICATION OF THIS PAGE (When Data Entered)

(19) REPORT DOCUMENTATION PAGE

READ INSTRUCTIONS BEFORE COMPLETING FORM

1. REPORT NUMBER: Technical Report TR-D-78-55	2. GOVT ACCESSION NO.
3. RECIPIENT'S CATALOG NUMBER (9)	
4. TITLE (and Subtitle) (6): EVALUATION OF LAWS AND REGULATIONS IMPACTING THE LAND USE OF DREDGED MATERIAL CONTAINMENT AREAS.	5. TYPE OF REPORT & PERIOD COVERED: Final report.
	6. PERFORMING ORG. REPORT NUMBER
7. AUTHOR(a) (10): James Cole, Michael Brainard	8. CONTRACT OR GRANT NUMBER(a) (15): Contract No. DACW39-77-C-0026
9. PERFORMING ORGANIZATION NAME AND ADDRESS: Science Applications, Inc. Environmental Sciences Division La Jolla, Calif. 92038	10. PROGRAM ELEMENT, PROJECT, TASK AREA & WORK UNIT NUMBERS: DMRP Work Unit No. 5D04
11. CONTROLLING OFFICE NAME AND ADDRESS: Office, Chief of Engineers, U. S. Army Washington, D. C. 20314	12. REPORT DATE (11): September 1978
	13. NUMBER OF PAGES: 265
14. MONITORING AGENCY NAME & ADDRESS (if different from Controlling Office): U. S. Army Engineer Waterways Experiment Station Environmental Laboratory P. O. Box 631, Vicksburg, Miss. 39180	15. SECURITY CLASS. (of this report): Unclassified
	15a. DECLASSIFICATION/DOWNGRADING SCHEDULE

16. DISTRIBUTION STATEMENT (of this Report)

Approved for public release; distribution unlimited.

(12) 309p.

17. DISTRIBUTION STATEMENT (of the abstract entered in Block 20, if different from Report)

18. SUPPLEMENTARY NOTES

19. KEY WORDS (Continue on reverse side if necessary and identify by block number)

Containment areas
Dredged material disposal
Evaluation
Land use
Laws
Regulations
Waste disposal sites

20. ABSTRACT (Continue on reverse side if necessary and identify by block number)

The principal areas of investigation were those laws and regulations of Federal, state, or local origin which have the effect of encouraging or discouraging productive end uses of new land created by the confined disposal of dredged material produced by navigation channel improvement projects. A search was made for all Federal laws and regulations and the laws of the 16 states in which most of the confined disposal activities are taking place. The

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Unclassified

SECURITY CLASSIFICATION OF THIS PAGE (When Data Entered)

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20. ABSTRACT (Continued).

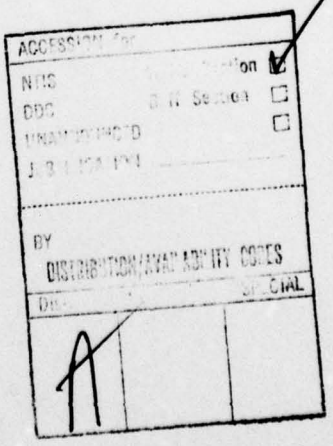
CONT

charters and regulations issued by the port districts or port authorities in the 16 states were also reviewed.

All laws and regulations that were found that could have an impact on land use decisions, including procedures for preparation and review of environmental impact assessments, are summarized in this report. The most restrictive provisions were incorporated into a series of scenarios for the application of permits to make productive uses of filled dredged material containment areas, and these were analyzed to assist in the development of strategies for overcoming the legal constraints on end use of this land.

All of the provisions in the law that tend to promote productive uses of land created by dredge-fill operations are summarized, and these were used in structuring the viable strategies for overcoming constraints noted in other jurisdictions. The conclusions and recommendations include approaches to the incorporation of a dredged material containment area "location and end use" element in the Level A, B, and C plans for river basins, produced under the Federal Water Pollution Control Act 1972 Amendments and the 1965 Water Resources Planning Act. This section of the report includes guidelines for the preparation of a model statute that might be sponsored by the Corps of Engineers, which, if enacted by the states in which confined disposal is practiced, would provide for coordinated multiagency processing of land use applications and would provide other incentives for productive use of all land created by the dredge-fill operations of the Corps of Engineers.

The reader is urged to augment his reading with Technical Report DS-78-20, the synthesis of research accomplished under Task 5D: Disposal Area Land Use Concepts, which draws a strong connection between a select number of significant pieces of legislation and disposal-productice uses.



SUMMARY

Pressure for greater reliance on land disposal of dredged material has increased significantly in recent years, due primarily to water quality concerns. The River & Harbor, Flood Control Act of 1970 (Pub. L. No. 91-611) has required contained disposal of polluted dredged material on the Great Lakes. Local concern in this area has precipitated a thorough examination by the Corps of Engineers of land disposal alternatives in general and, more specifically, possible productive land uses of dredged material.

One of the most significant factors influencing beneficial land uses of dredged material containment areas (hereinafter referred to as DMCAs) has been the legal/regulatory framework associated with land use. The concern over land use has intensified within the past decade due to increased urban sprawl, the reduction of natural or open areas and the high level of awareness regarding environmental impacts associated with uncontrolled development. This concern has led to a plethora of legislation in Federal, State, and local arenas designed to control the use of land in response to a variety of circumstances and vested interests.

This report presents a compilation and analysis of Federal, State, and local laws, regulations and ordinances which could impact proposed uses of DMCAs that have been filled to capacity. This report is intended primarily to be an informational guide to existing laws and regulations. It is designed for use by Corps of Engineer developers, planners, and engineers to aid in the decision to implement DMCAs. However, the scope of the report would allow its use by a much broader audience. The report is directed toward identifying land use legislation that impacts DMCAs, but the legislation affecting any type of land use is included in the report because most laws generally make no distinction between DMCAs and other types of land area.

The broad scope of this study presents a comprehensive summary of existing land use legislation impacting any land area and could be of value to those interested in land use planning and management.

The study scope includes:

a. Federal laws and regulations;

b. State laws and regulations for 16 selected states;*

c. city and county ordinances for selected cities and counties within the 16 states;

d. port districts or other special districts within the 16 sample states.

The report has attempted to include all legislation which has or potentially will have a significant impact upon land use of DMCAs. The only legislation specifically excluded from the scope of this study is air quality and water quality law. [e.g., Porter-Cologne Water Quality Control Act, California Water Code, Section 1300 (1969); Ore. Rev. Stat., Sections 468, 275 to 468, 345 (1969)] Air and water quality legislation would have some impact on land uses in that any sources of air emissions or discharges to waterways placed on DMCAs would be subject to regulation. This connection, however, is considered too remote to include within the study scope. Some examples of the impact of Federal and State water quality law, particularly the planning provisions that affect future land use, are presented in the report; however, a thorough compilation and analysis is not included.

Most of the information summarized herein was gathered through letters requesting information from local governments, port districts and Corps officials, and through telephone contacts with Federal, State, port district, local government, and Corps officials. A literature search was made which included

*California, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New York, North Carolina, Oregon, Texas, Virginia, Washington, Wisconsin.

law library research, review of pertinent U.S. Army Engineer Waterway Experiment Station literature, and a search of domestic and foreign literature treating land disposal of dredged material specifically and land use in general.

Federal laws, for the most part, have an indirect impact on DMCA land use. The most significant Federal laws are:

a. Coastal Zone Management Act of 1972 (16 USC Section 1451 et seq.; Pub. L. No. 92-583; 86 Stat. 1289).

b. National Environmental Policy Act 42 USC Section 4341; Pub. L. No. 91-190).

c. Federal Water Pollution Control Act (33 USC Section 1251 et seq.; Pub. L. No. 92-500).

d. Clean Water Act of 1977 (Pub. L. No. 95-217; 91 Stat. 1566).

e. Endangered Species Act of 1973 (Pub. L. No. 93-205; 87 Stat. 884).

f. Fish & Wildlife Coordination Act [16 USC Sections 661-666; Pub. L. No. 85-624 (1935)].

g. Resource Conservation and Recovery Act of 1976 (42 USC Sections 3251 et seq.; Pub. L. No. 94-580).

h. National Flood Insurance Act of 1968 (Pub. L. No. 90-448).

i. Wild and Scenic River Act (16 USC Sections 1274 et seq.; Pub. L. No. 94-486).

An example of Federal laws which have a direct impact on the productive land uses of DMCAs are those which have been instrumental in the development of State laws which have a significant effect. The Coastal Zone Management Act encourages the implementation of State coastal programs which are to be developed under Federal guidelines. State and local floodplain management programs have been developed by the impetus of Federally-backed insurance under the National Flood Insurance Act.

By contrast, the National Environmental Policy Act and the Federal Water Pollution Control Act are regulations that require attention by engineers and planners of DMCAs.

Plans for DMCAs and their ultimate use are accountable to the administrators of these acts to insure compatibility of Federal law.

The most restrictive legislation impacting DMCA land use is found at the State level. In recent years, states have been consistently moving into the traditionally local domain of land use control. The form and intent of the State laws directing land use are varied and differ in scope from state to state.

To facilitate the presentation of the varied State laws, general categories were developed which allow a systematic approach to collation and presentation of the legislation existing in each of the 16 selected states. The following categories and subcategories of State laws were identified, and legislation in all selected states was searched to determine the existence of the specified type of legislation:

a. Laws directed at environmental protection

   1. Wetlands protection laws (includes shoreline or coastal and freshwater wetlands laws)
   2. Water quality laws
   3. Wild and scenic river system laws
   4. Wild lands protection or land conservation laws
   5. Fish and game habitat protection laws
   6. Environmental impact assessment laws

b. Laws directed at land use control

   1. State land use and land use planning laws
   2. Public lands laws controlling State-owned lands or submerged lands
   3. Sediment or erosion control laws
   4. Floodplain protection laws

5. Agricultural zoning laws
6. Local zoning enabling laws
7. Port district enabling laws
8. Other laws.

The states all had some of the above types of laws.

The most severe constraints on land use of DMCAs at the State level were those imposed by:

a. Wetlands protection laws
b. Wild and scenic rivers systems laws
c. Floodplain protection laws.

The states with the greatest volume of legislation and which imposed significant State constraints were California, Massachusetts, and New York.

The states with the least number of strong State land use laws were Louisiana, Mississippi, and Texas.

The salient characteristics of the laws found in all 16 states are presented in the matrices appended to this report (Appendix C); each law is also succinctly described in the summary of State laws found in Sections 3.2 and 3.3 of this report.

Many states have enacted similar laws in the areas singled out for purposes of this study. For this reason, the laws of California, Florida, and Oregon have been used to highlight this legislation because of the consistent depth found in their regulations. Other states are singled out where it was felt they provided good examples in certain areas.

Cities and counties implement floodplain management programs either under a state mandate to do so, or voluntarily in order to obtain the Federal insurance. These programs include the most severe constraints found at the local level. Other local constraints on land use of DMCAs are contained in

local zoning ordinances and building codes. These constraints are the most direct that will be encountered by the Corps districts. Two of the 55 cities studied, Chicago and Seattle, had extensive shoreline management programs that were similar to the coastal programs often encountered at the state level. Seattle's program is considered exemplary because of the detailed planning for DMCA site location and for site end use.

Port districts generally do not directly regulate land uses on lands within their jurisdiction. They are often restricted by their enabling law to the use of port land for water-borne commerce or port-related purposes. This restriction, however, is usually very broad and many uses are allowable within a term such as "port-related". They are also often subject to local zoning ordinances and building codes. Port districts and city or county governments are often local sponsors for Corps projects and, as such, may be the owners of DMCA sites. Their ownership rights will also direct uses to be made of the land.

Correspondence with Corps district offices highlighted several factors concerning land uses of DMCAs: (1) very little prior planning for end-uses of a DMCA presently occurs; (2) only a few states have a lead agency or group to facilitate coordination of state agency responses to a Corps-sponsored project; (3) state wetlands protection laws, coastal zone management laws, and floodplain laws often were the most restrictive laws encountered by the districts; and (4) recreational, or other minimal, public uses are the predominate uses presently made of DMCAs.

In addition, institutional arrangements are discussed at the Federal, State, local, and port district levels. Institutional arrangements are entities that are responsible for the fund raising, the appropriation, and management of newly produced land. Institituional arrangements are the agencies

that provide for the long term management of land and determine the permissible use of such land.

The levels of institutional arrangements correspond to the type of jurisdiction involved. For example, Federally-owned land has its own type of institutional arrangements, and so does State-owned land, and so on. The institutional arrangements at a particular level decide the best and highest use of the land within their juristiction. Applications and suggestions for implementation of DMCAs must follow the channels of institutional arrangements in order to meet the land use requirements at the respective regulatory level.

Part IV of the report contains the findings, conclusions and recommendations of the legislative survey. This section summarizes the present trends of regulations found at the everchanging Federal, State, local and port district levels. It is the intent of the study group that a consideration of the trends at the different levels of government will reflect the interrelationship of the various levels as roughly illustrated by Appendix B which contains the hierarchy of laws. Federal regulations in the area of land use are directed toward the establishment of national policy which is to be implemented by the states. The states, in turn, transmit the policy to the local government in the form of enabling legislature. Strategies to ensure compliance by Corps of Engineer planners within the various regulatory levels are then discussed. These strategies which have been developed are valuable tools which can assist the more effective use of DMCAs. They give Corps of Engineer planners and developers alternate methods of implementing DMCA uses in harmony with the multitude of land use legislation.

PREFACE

The work described in this report was performed under Contract No. DACW39-77-C-0026 between the United States Army Engineer Waterway Experiment Station (WES), Vicksburg, Mississippi, and Science Applications, Inc., La Jolla, California. The work was conducted as a part of the Dredged Material Research Program (DMRP) and was designated as DMRP Work Unit No. 5D04, entitled "Evaluation of Laws and Regulations Impacting the Land Use of Dredged Material Containment Areas." The DMRP was sponsored by the Office, Chief of Engineers, U.S. Army, and was managed by the Environmental Laboratory (EL), WES.

The research of this study was conducted between March 1, 1977, and March 1, 1978, under the supervision of Mr. Donald Macdonald. Mr. Michael Brainard and Mr. James Cole were the principal contributors and were assisted by Mr. William Dwyer, Ms. Toni McCrary, Mr. Mike Atencio, Mr. Michael Metcalf, Mr. Lee Ranill, and Ms. Carrie Wagner.

The contract was part of the Productive Uses Project of the DMRP which was managed by Mr. Thomas R. Patin and MAJ Robert Meccia, CE. The contract was monitored by MAJ Mark D. Malkasian, CE, EL. The DMRP was under the general direction of Dr. John Harrison, Chief of EL.

Personnel from several Corps District/Division Offices were contacted during the course of this study, and the contributions of the following individuals are gratefully acknowledged:

Mr. V. L. Andreliunas, New England Division
Mr. Gail G. Gren, Jacksonville District
Mr. Jack F. Bechly, Portland District
Mr. Ron Silver, Baltimore District
Mr. E. O. McGehee, Galveston District
Mr. Allan M. Tyrrell, Wilmington District
Mr. G. T. Russell, Wilmington District
Mr. Edward H. Buelow, Vicksburg District
Mr. T. J. Goety, St. Paul District
Mr. Hiramen Arden, Seattle District
Mr. James McBride, Sacramento District
Mr. G. W. Probasco, Sacramento District

The study team is also indebted to the innumerable city, county, port district and State representatives whose reponses to the land use surveys provided the foundation for this report.

The Director of WES during the period of the contract was COL J. L. Cannon, CE. Mr. F. R. Brown was Technical Director.

CONTENTS

		Page
SUMMARY		1
PREFACE		8
LIST OF TABLES		15
CONVERSION FACTORS - U.S. CUSTOMARY TO METRIC		16
PART I:	INTRODUCTION	17
PART II:	DATA COLLECTION SOURCES AND STUDY METHODOLOGY	20
2.1	COMPILATION OF IMPACTING LAWS AND REGULATIONS	20
2.2	DATA REVIEW AND ANALYSIS OF LAWS AND REGULATIONS	22
PART III:	EVALUATION AND ANALYSIS OF LAWS AND REGULATIONS	23
3.1	FEDERAL LAWS AND REGULATIONS	23
3.1.1	Directly Impacting Federal Legislation	23
3.1.2	Indirectly Impacting Federal Legislation	40
3.1.3	Institutional Arrangements at the Federal Level	46
3.2	TRENDS OF STATE LAWS DIRECTED AT ENVIRONMENTAL PROTECTION	48
3.2.1	Introduction	48
3.2.2	Wetlands Protection Laws	50
3.2.3	Water Quality Laws	52
3.2.4	Wild and Scenic River System Laws	53
3.2.5	Wild Lands Protection or Land Conservation Laws	54
3.2.6	Fish and Game Habitat Protection Laws	55
3.2.7	Environmental Impact Assessment Laws	56

CONTENTS

		Page
3.3	TRENDS IN STATE LAND USE LAWS	58
3.3.1	Introduction	58
3.3.2	State Land Use and Land Use Planning Laws	59
3.3.3	Public Land Laws Controlling State-Owned Lands or Submerged Lands	61
3.3.4	Sediment or Erosion Control Laws	63
3.3.5	Floodplain Protection Laws	65
3.3.6	Agriculture Zoning Laws	65
3.4	INSTITUTIONAL ARRANGEMENTS IN APPLICATION OF STATE LEGISLATION	68
3.5	CITY AND COUNTY CONSTRAINTS	70
3.5.1	Introduction	70
3.5.2	City & County Land Use Contstraints Matrix	71
3.5.3	Model Land Development Code Provisions	72
3.5.4	Uniform Building Code	74
3.5.5	Floodplain Management Programs	75
3.5.6	Seattle Shoreline Master Program	84
3.5.7	Chicago Lakefront Protection	87
3.5.8	Institutional Arrangements in Cities & Counties	89
3.6	IMPACTING PORT DISTRICT REGULATIONS	90
3.6.1	Introduction	90
3.6.2	Authority Creating Port Districts	90
3.6.3	Ownership of Port District Land	91
3.6.4	Duties and Authorities of Port Districts	91
3.6.5	Port District Self-Imposed Plans and Land Use Restrictions	92
3.6.6	State Law Constraints on Port District Land Uses	92
3.6.7	Institutional Arrangements	93

CONTENTS

		Page
3.7	REGULATIONS ENCOUNTERED BY CORPS DISTRICTS/DIVISIONS	95
3.7.1	Effect of Federal Ownership on Uses of DMCA	96
3.7.2	Extent to Which End Use of a DMCA Is Known Prior to Filling of the Site	96
3.7.3	Urban Versus Rural Uses	98
3.7.4	Legislative Schemes to Facilitate Inter-Governmental Coordination	98
3.7.5	Most Restrictive Laws Encountered	99
3.7.6	Types of Uses Currently Being Made of DMCAs	99
3.7.7	Collation of State Laws by Corps District/Division	100
3.8	SUMMARY OF CONSTRAINTS BY OWNERSHIP	101
3.8.1	Introduction	101
3.8.2	State Jurisdiction Over Federally-Owned Lands	101
3.8.3	Application of State Statutes to Federally-Owned Land	105
3.8.4	State Jurisdiction Over Indian Lands	106
3.8.5	Local Constraints Upon Federally-Owned Lands	106
3.8.6	Local Constraints Imposed on State-Owned Lands	107
3.8.7	State Control Over Locally-Owned Lands	107
3.9	SUMMARY OF CONSTRAINTS BY TYPE OF USE	108
3.9.1	Types of Uses Constrained by Federal Laws	108
3.9.2	Types of Uses Constrained by State Laws	108
3.9.3	Types of Uses Constrained by City and County Ordinances	112
3.9.4	Types of Uses Constrained by Port Districts	113

CONTENTS

		Page
PART IV:	FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS	114
4.1	FINDINGS	114
4.1.1	Summary of Land Use Controls – General Laws and Procedures	114
4.1.2	Summary of Land Use Controls – Special Laws and Programs	115
4.1.3	Summary of Principal Conditions Affecting the Complexity of Achieving Beneficial DMCA Land Use	117
4.2	MAJOR TRENDS IN LEGISLATION AFFECTING DMCA IMPLEMENTATION	119
4.2.1	Federal Land Use Laws	119
4.2.2	Federal Environmental Protection Laws	120
4.2.3	State Land Use Laws	123
4.2.4	State Environmental Protection Laws	125
4.2.5	Local Laws	128
4.2.6	Port District Laws	129
4.3	TRENDS IN DECISIONMAKING AND PLANNING PROCEDURES AFFECTING THE COMPLEXITY OF LAND USE DECISIONS	130
4.3.1	Procedural Simplifications in Environmental Assessments	130
4.3.2	State and Local Mandates for Greater Specificity in Land Use Planning	130
4.3.3	Increased Tendency to Cut Short Protracted Challenges to Projects	131
4.4	STRATEGIES AND GUIDELINES FOR THE ENCOURAGEMENT OF PRODUCTIVE LAND USES OF DMCAs	132
4.4.1	To Ensure Compatibility with Federal Legislation	132

CONTENTS

		Page
4.4.2	To Ensure Compatibility with State Legislation	134
4.4.3	To Ensure Compatibility with Multiple Agencies	144
4.4.4	To Ensure Compatibility with and Receive Support from Local Governments for the Creation of New Projects	145
4.4.5	Special Strategies and Guidelones in Planning Uses for DMCAs	147
BIBLIOGRAPHY		148
APPENDIX A:	KEY WORD LIST USED IN RESEARCH OF STATE LAWS	A1
APPENDIX B:	HIERARCHY OF LAWS AND REGULATIONS OF THE FEDERAL AND STATE GOVERNMENTS	B1
APPENDIX C:	STATE LAND USE LAW MATRICES	C1
APPENDIX D:	LETTER OF REQUEST SENT TO CITIES, COUNTIES, AND PORT DISTRICTS	D1
APPENDIX E:	CITY AND COUNTY LAND USE CONSTRAINTS MATRIX	E1
APPENDIX F:	MATRIX SHOWING IMPACT OF PORT DISTRICT AUTHORITIES ON LAND USE	F1
APPENDIX G:	LETTER OF REQUEST SENT TO CORPS DISTRICTS	G1
APPENDIX H:	MATRIX OF CORPS DISTRICT RESPONSES	H1
APPENDIX I:	COLLATION OF STATE LAWS BY CORPS DISTRICT	I1

LIST OF TABLES

TABLE		PAGE
1.	City and County Ploodplain Matrix	80
2.	Types of Uses Encouraged or Discouraged by California Law	109

CONVERSION FACTORS, U.S. CUSTOMARY TO METRIC (SI)
UNITS OF MEASUREMENT

U.S. customary units of measurement used in this report can be converted to metric (SI) units as follows:

Multiply	By	To Obtain
inches	25.4	millimetres
feet	0.3048	metres
yards	0.9144	metres
miles (U.S. statute)	1.609344	kilometres
square feet	0.092903	square metres
acres	4046.856	square metres
cubic yards	0.7645549	cubic metres
pounds (force) per square foot	47.88026	pascals

EVALUATION OF LAWS AND REGULATIONS IMPACTING THE LAND USE OF DREDGED MATERIAL CONTAINMENT AREAS

PART I: INTRODUCTION

1. The U.S. Army Corps of Engineers has been responsible since 1824, for the development and maintenance of harbors and navigable channels for the waterborne commerce of the Nation. During the first century of this activity, dredged material was relatively pollution-free and could be safely placed in open water near the dredging site. The ever-increasing pace of industrialization has brought with it pollution of the environment, including contamination of channel sediments that must periodically be dredged to keep our rivers, lakes, and seaports open to commerce. This material, when resuspended in the water column by open-water disposal, poses a threat to water quality and the biological community. Since 1969, Congress has provided funds to dispose of contaminated materials within diked confinement facilities that were designed to preclude the reentry of this material into the waters or origin.

2. Unconfined upland and waterside disposal areas were in use before 1969, but with the avowed national goal of clean water, as evidenced by the Federal Water Pollution Control Act Amendment of 1972, many more confined disposal sites are required. As the demand for dredge-filled land sites increases, the need to make beneficial use of the new land becomes more apparent.

3. The same environmental awareness that caused the sudden burgeoning of confined disposal sites has also spawned a variety of legislative and regulatory controls on the uses that can be made of land, particularly in the regions (wetlands, coastal zones, floodplains) where dredged material is mot likely to be confined. The purpose of the

study reported herein was to define the set of legislative impacts on the uses that may be made of dredge-filled land, and recommend approaches to the attainment of a wider range of end uses, with less cost than is presently associated with the multilevel approval required by many uses that are proposed for this land. Local sponsors have both the task of finding suitable disposal areas and the management responsibility for the site after it is filled, to include ensuring that the created land is being productively used. This arrangement, while it allows disposal by the Corps without involvement in land use decisions, does not free the Corps from dealing with land use concerns. The ability of the local sponsor to initiate the project often may depend on land use plans for the created land at the site. Legislative and regulatory impacts may cause significant delays in needed channel dredging projects. Additionally, the Corps, by virtue of its own internal policy, is concerned with conducting navigation-related dredging projects in a manner which assures that disposal operations are environmentally, economically, and socially acceptable.

4. This report includes specific recommendations and describes some of the methods that could be used by the Corps in developing land use plans and selecting future dredged material containment areas (DMCAs). By considering the greatest range of uses at an early point in the planning process, many of the objections to a proposed use can be identified and mitigated when the plan is first introduced. Well-coordinated land use planning will also ensure compatibility between the Corps navigable waterway mission and State and local land use objectives.

5. Many of the legislative restraints on land use are of very recent origin. Indeed, new State laws are emerging monthly, and it is therefore difficult to identify specific

production uses that are constricted because of a particular law. For this reason, the researchers were obliged to examine a large sample (16 states) of both the old and new laws and postulate the effect that these laws could have on the end use of a dredge-filled site. Since laws are continually in a fluid state, a general summary of laws is presented in Section 4.1, along with a description of the trends that are evident at this point in time.

6. The following section of this report describes the data collection process and methodology employed in the study. The findings of the legal research team are presented in nine subparts in Section 3 of the report, with conclusions and recommendations presented in Section 4. A concise summary of the State laws that are deemed to be of present or future importance in discouraging or encouraging the use of dredge-filled land is presented in matrix form in Appendix C. Other appendices include a collation of the laws by Corps of Engineer Districts (Appendix I), a sample of the survey instruments used in the data collection (Appendices A,D,G & H), and the bibliography that was produced in the course of the literature search.

PART II: DATA COLLECTION SOURCES AND STUDY METHODOLOGY

2.1 COMPILATION OF IMPACTING LAWS AND REGULATIONS

7. Federal laws were collected from law library research and from the Bureau of National Affairs (BNA) Environment Reporter. They were checked for interpretive or modifying case law and were analyzed for their impact on productive land uses of DMCAs.

8. State laws and regulations were collected through telephone contacts with State agencies, through law library research, and also through the Environment Reporter. A key word list used in the law library research is presented in Appendix A. Prior to obtaining the laws,[16] geographically representative states* with extensive confined land disposal activity were selected with WES concurrence. Emphasis was placed on states with coastal areas. State laws were compiled and analyzed through matrix analysis to assess their impact upon land uses of DMCAs. Summaries of selected State laws were discussed to illustrate developing State trends. A list of State laws was compiled and collated by Corps Districts/Divisions, which is presented in Appendix I.

9. City and county ordinances were collected through letters of request sent to selected jurisdictions within the 16 states included in the study. Letters were sent to 55 city and county governments. A copy of the letter is presented in Appendix D. Additional city and county regulations were obtained through telephone solicitation with the Housing and Urban Development Administration (HUD). HUD maintains microfiche files for all local jurisdictions applying for federal flood insurance

*California, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New York, North Carolina, Oregon, Texas, Virginia, Washington and Wisconsin.

under the Housing and Urban Development Act of 1968 (Pub.L. No. 90-448). These files contain all State and local land use regulations and building codes which regulate land uses in floodplain areas. Local jurisdictions must show evidence of compliance with HUD standards to obtain insurance coverage. The files were obtained and analyzed along with information received from the mail solicitation for city and county ordinances impacting possible land uses of DMCAs.

10. Port districts within the 16 states were surveyed by a letter of request and by telephone interviews. Requests for information were sent to 70 port officials. The letter of request was similar to that used for cities and counties (see Appendix D). The information received was reviewed and analyzed through a matrix analysis to identify port district impacts on DMCA land uses. This information is presented in Appendix F.

11. Corps Districts/Divisions were also surveyed through a letter of request and telephone contacts. A sample of the letter is presented in Appendix G. The information received was analyzed and presented through the use of matrices which indicate existing land use problems experienced by the Districts/Divisions (See Appendix H).

12. In addition to the surveys mentioned above, a literature search was conducted for material pertinent to land use generally, and to Corps land use problems specifically. Additional literature was requested from WES following a thorough search of the Environment Index for the years 1972-1976 and an index search of local libraries.

2.2 DATA REVIEW AND ANALYSIS OF LAWS AND REGULATIONS

13. Following compilation and analysis of existing Federal, State and local laws and regulations impacting land use, a series of trends within the hierarchy of authority began to emerge. The Federal laws can be divided into those having a direct impact upon productive uses of DMCAs and those with a more indirect impact. State laws, on the other hand, were better divided into those enacted primarily to regulate land use and those directed toward environmental protection.

14. To best illustrate the trends present in existing laws, matrix analysis was employed. From a matrix, salient characteristics showing similarities and differences between laws could be readily discovered and assessed. By a comparison of various laws within the same category, trends were easily depicted. From the developing trends, strategies were formulated for the Corps. These strategies were based on a literal interpretation of the laws and Corps past experiences with them. The strategies are designed to ensure compatibility with existing legislation. In jurisdictions contemplating legislation, Corps strategies were developed to encourage provisions for DMCA planning and end use.

PART III: EVALUATION AND ANALYSIS OF LAWS AND REGULATIONS

3.1 FEDERAL LAWS AND REGULATIONS

15. This section represents a compilation of Federal legislation which will affect land use of DMCAs. The discussion will focus on the trends in Federal legislation that are considered by the legal analysts to have the most significant impact on DMCAs. It will be divided into two sections: those laws which directly impact land use of DMCAs and those laws which, despite their pervasive influence, have only a tangential effect. Each sub-category will then appear in the hierarchy of its importance.

3.1.1 Directly Impacting Federal Legislation

Coastal Zone Management Act [Pub. L. No. 92-583(1972)]

16. Of the Federal legislation which directly affects DMCAs, the Coastal Zone Management Act of 1972 has the most significant and far-reaching impact. The primary goal of the CZMA is to assist the individual states in preparing and implementing management programs to preserve, protect, develop, and restore the coastal resources of the United States. The extent of the Act is to enhance State authority by encouraging and assisting the states in assuming planning and regulatory powers over their coastal zones. A system of grants-in-aid provides financial incentive to undertake the responsibility for setting up management programs in the coastal zone.

17. The Coastal Zone Management Act is designed to enrich State control of coastal regions within their respective boundaries. Funds are available to the states to aid implementation of these programs geared toward the wise use of land and water resources, provided a minimum set of standards are met (e.g., identify boundaries of the coastal zone, definitions of permissible land and water uses within

the coastal zone, inventory of areas of special concern within the coastal zone). Any Federal agency which has an interest in the State coastal region, for example, a Department of the Interior park service project, is encouraged to assist the State as well as local government in a coastal management program. It should be noted that any Federal programs affecting the coastal zone are, by Congressional mandate, required to cooperate and participate as much as is practicable with the states in carrying out the provisions of this act. The Federal Government seems to be effectively preempting itself, as far as control and management of the coastal zone is concerned.

18. Congress indicated the impact of its coastal zone management program by describing the rigid requirements that should appear in the management programs. Section 304(11) of the Act suggests that such programs should include, but not be limited to:

> " ... a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of land and waters in the coastal zone."

19. As previously mentioned, the grants given by the Secretary of the Commerce are given only to those State programs which are in accordance with the prescribed Federal standards. However, despite the State's primary role in the management program, the Federal Government maintains a degree of supervision with their permit program. Section 307(3)(A) of the Act dictates that any activity affecting the land or water uses in the coastal zone that has been so

designated by the state, must have a Federal license permit. The application is also sent to the state and the coastal state shall establish procedures which provide for public notice and public hearings in connection with the proposed activity. Concurrence by the state with the Federal certification of the application for the proposed use must come within six months of receipt of their copy.

20. This legislation has many effects on any disposal of dredged or fill material by the Corps of Engineers in the coastal zone. Operations of this type are subject to a three-pronged scrutiny test. First, the proposed dredging operation must be fashioned to meet the coastal State's management program, which would require familiarization with the peculiarities of the situs state's program. Then the application is sent to the Department of the Commerce to certify such compliance. Finally, while this is going on, the proposed action is undergoing public scrutiny in the form of hearings which elicit opposition or support. It is, however, this very tripartite authoritative hierarchy which could increase the implementation of DMCAs in the coastal area.

21. An application for a DMCA would afford an excellent opportunity for Federal, State, and local governments to cooperate on decisions regarding the best uses of dredged land. An added incentive for this cooperation and coordination among these levels of government is the fact that a successfully negotiated CZM plan would mean more money being pumped into the coastal area by Congress. The aid by Congress could be astronomical since the Act authorizes management program grants, administrative grants, interstate grants, and energy development grants.

22. Since its passage in 1972, the Coastal Zone Management Act has spawned many State coastal programs. This trend has been established due to the financial attractiveness of implementing a coastal zone management program as well as the increased environmental awareness now spreading across the Nation. The widespread use and extensive impact of this legislation commands the greatest respect by supervisors and planners of DMCAs.

National Environmental Policy Act [42 U.S.C. Section 4341 (1969); as amended by Pub. L. No. 94-52, Pub. L. No. 94-83 (1975)]

23. The purposes of the National Environmental Policy Act are: (a) to declare a national policy which will encourage a productive and enjoyable harmony between man and his environment; (b) to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; (c) to enrich the understanding of the ecological systems and natural resources important to the Nation; and (d) to establish a Council on Environmental Quality.

24. The Council on Environmental Quality is composed of three members appointed by the President, who have demonstrated exceptional qualifications, enabling them to analyze and interpret environmental trends and information, appraise Federal activities in light of the foregoing, and formulate and recommend national policies for the improvement of the quality of the environment. The Council has the continuing duty to evaluate the present and prospective trends in the quality of the environment, and decide whether such trends interfere with the general policy statements of the Act.

25. In addition, the Council works in close contact with the President to advise him of the state and condition of the environment, and to recommend national policies to foster and promote improvement in environmental quality

26. While the general substantive policy of the Act is flexible and allows for a degree of discretion, the major effect of the Act lies in the strict procedural provision which sets a mandatory standard of compliance for all Federal agencies. All proposed Federal activities affecting land use and development must include a detailed statement which includes the environmental impact of the proposed action, identification of adverse environmental effects, alternatives to the action, as well as any irreversible and irretrievable resources which would be involved in such activity. The statement is then sent to the Council on Environmental Quality where it is analyzed in view of existing environmental policy and a recommendation is then made by the Council based on the overall environmental effect.

27. The Act makes environmental protection a part of the mandate of every Federal agency.

The Federal agencies must assess environmental conditions in their development of proposed actions and they must file a detailed statement of their intentions which is subject to the strict scrutiny of the Council on Environmental Quality and the President to insure compliance with national policy. Proposed dredge operations by the Corps of Engineers will be most affected by this latter provision.

28. If, for example, the Corps of Engineers was engaged in a dredge operation in a river or harbor area pursuant to the legislative mandate stipulated in the Rivers and Harbors Acts of 1899 (to be discussed separately), they would be required to provide a disposal site for the dredged material. Notwithstanding approval by the local sponsor,

an environmental impact statement would be required to be filed with the Council on Environmental Quality. It should be noted that Section 102 of the Act says that comments and views of the appropriate State and local agencies authorized to develop and enforce environmental standards shall be included in the environmental impact statement sent to the Council and the President. This would require the Corps of Engineers to voluntarily subject themselves to possible public opposition even before the statement was considered by the Council and/or the President.

29. This Act requires a certain degree of environmental forethought on the part of the Corps of Engineers. Their environmental impact statement preceding any proposed land use or development in environmentally sensitive areas must be thorough enough to convince the Council of the practicability of the proposed activity. There is a possibility that the compilation of the environmental statement, and the approval by the local and State agencies and by the Council, could cause great delay in such a dredging activity. However, once such a statement is approved, the Corps of Engineers will have successfully demonstrated that they can conduct such an activity in accordance with the Nation's environmental policy. This ability to meet present environmental demands would be a marketable commodity and might encourage local or State sponsors to solicit such development from the Corps of Engineers.

Federal Water Pollution Control Act Amendment of 1972 [33 U.S.C. Section 1251 et seq., Pub. L. No. 92-500 (1972)]*

*This replaces the Act of 1956, including the Water Quality Act of 1966, and the Water Quality Improvement Act of 1970; all of which had been amendments to that Act.

30. The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective, provisions of this Act set as national goals or policy that: (a) the discharge of pollutants into navigable waters be eliminated by 1985; (b) wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife, and provides for recreation in and on the water be achieved by July 1, 1982; (c) the discharge of toxic pollutants in toxic amounts be prohibited; (d) Federal financial assistance be provided to construct publicly owned waste treatment works; (e) area-wide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each state; and (f) a major research and development effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans.

31. To the extent that a proposed use of a DMCA would create runoff from the site or a point source of stream pollution, local agencies could invoke this Act as authority for denying a use. These same conditions would apply equally to a DMCA under Federal jurisdiction because Executive Order 11574 (December 25, 1970) imposes an obligation on Federal agencies to comply with the intent of the environmental protection enactments. Absent a possible water-quality violation, this Act is not likely to affect use of a DMCA that is already in existence.

32. The main objective of the Federal Water Pollution Control Act Amendments of 1972 is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. Albeit, the Act specifically addresses the environmental problems regarding the prevention, reduction,

and elimination of water pollution, Congressional policy embodied within the Act recognizes the rights of the states to plan the development and use (including restoration, preservation, and enhancement) of land and water resources. Such land resource utilization calls for restrictive measures (land use constraints) necessary to monitor and control environmentally unacceptable practices. An appropriate example is provided by Section 208 of the Act.

33. Section 208 requires the development and implementation of areawide waste management plans and practices. These management plans and practices provide for the application of the best practicable waste treatment technology before any discharge into receiving waters. This includes reclaiming and recycling of water and confined disposal of pollutants so they will not migrate to cause water and other environmental pollution. The constraining features of Section 208 on land use and development are alluded to in Subsection (b)(2)(F)(ii) which sets forth procedures and methods (including land use requirements) for controlling, to the extent practicable, runoff from agriculturally and silviculturally related nonpoint sources of pollution, including runoff from manure disposal areas and from land used for livestock and crop production, and in Subsection (b)(2)(J)&(K) which requires a process which will control disposition of all residual waste generated in such areas that could affect water quality.

34. Dredged material falls within the Congressional definition of residual waste under Section 208 of the Act, and the EPA has specifically included dredged material as a waste for which the Section 208 areawide plans are to make provision.

35. Under the Rivers & Harbors, Flood Control Acts of 1970 (to be discussed separately), the EPA is named jointly with the Corps of Engineers to conduct research and find long-term solutions to problems of possible adverse environmental effects of dredge material disposal. The EPA is also the administrator of the Federal Water Pollution Control Act and has the duty under Section 208 to establish waste treatment management for those areas with water quality control problems. The result of these agency designations is that there will be a coordination of the Corps of Engineers and the EPA in the planning of long-term solutions to the location and the end use of the DMCAs.

36. In those areas designated as having a water quality control problem (usually urban areas), the Corps of Engineers and the EPA will be planning together for a successful inclusion of a DMCA. This will require a high degree of cooperation between the agencies. The effect of their cooperation is discussed in Part IV of this report.

37. Section 209 of the Act entitled "Basin Planning" mandates that the President, acting through the Water Resources Council, prepare a Level B* plan under the Water Resources Planning Act for all basins in the Nation. Level B studies are made for developments in regional or basin areas for water and related land resources where problems are of a complex nature involving several environmental concerns (e.g., water resources, land use, environmental quality). This provision allows input by the Corps of Engineers regarding productive land use for DMCAs since such an activity would require multi-agency participation. Furthermore, such

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*Level A: assessments and framework studies; Level B: regional or river basin studies; Level C: implementation studies 33 C.F.R. Section 252.13(a) .

cooperation is regulated by the general guidelines set by the Water Resources Council.

38. Preparation of Level B plans is well underway, but many basins have yet to be surveyed. It appears that it will be possible and very productive to require that Level A and Level B plans include identification of the most acceptable sites in each basin for use as future DMCAs. The question of possible use of the land after the DMCA is filled can be addressed at the same time.

39. Section 404 of the Act authorizes the Secretary of the Army, acting through the Chief of Engineers to issue permits for changes of dredged or fill material into navigable waters at specified disposal sites. The permits are to be approved in accordance with guidelines applicable to the territorial seas, the contiguous zone and the ocean. This allows the Corps of Engineers an opportunity to condition approval of dredging permits on the implementation of a DMCA which also complies with applicable environmental guidelines.

Clean Water Act of 1977 (Pub. L. No. 95-217)

40. The Clean Water Act of 1977 is an amendment to the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) to provide for additional authorizations and for technical and dollar amount revisions.

41. The primary impact of this Act is that it modifies Section 404 of the Federal Water Pollution Control Act to allow the Governor of any state to administer its own permit system for discharge of dredged material into navigable water. [Section 67(g)(1)] The Administrator of the Act insures that such State program complies with certain minimum conditions such as: a) prosecuting violations of

permit conditions, (b) setting a time limit on permits, and (c) assuring that the Administrator receive copies of each permit application. Whereas the previous Act allowed the Corps of Engineers to have exclusive review of dredge operation on navigable waters, this Act would limit the Corps of Engineers capacity to recommend DMCAs as a condition to granting dredging permits.

Resource Conservation & Recovery Act of 1976* (42 U.S.C. Section 3251 et seq., Pub. L. No. 94-580)

42. This Act was passed to provide technical and financial assistance for the development of management plans and facilities for the recovery of energy and other resources from discarded materials and for the safe disposal of discarded materials, and to regulate the management of hazardous waste.

43. The provision most affecting DMCA supplementation is the Congressional finding that open dumping is particularly harmful to health in that it contaminates drinking water from underground and surface supplies and pollutes the air and the land. [Section 1002(b)(4)] One of the objectives of the Act is to prohibit future open dumping on the land and to convert existing dumps to facilities which do not pose a danger to health or to the environment. [Section 1003(3)] The Act is administered by the Administrator of the Environmental Protection Agency.

44. If the dredged material was listed as a hazardous waste by the Environmental Protection Agency, then the Corps of Engineers would be required to obtain a permit. This possibility might arise if the dredging operations took place in a heavily used navigational channel or other areas where

*Replaces the language of the Solid Waste Disposal Act.

the bottom sediment would be particularly hazardous to the extent identified by the Environmental Protection Agency. The application for the permit then must include a wide range of information respecting the concentrations and quantities of the waste material, the time and frequency of disposal, and an environmental survey of the site selected for the DMCA.

45. Subtitle D of the Act provides assistance in developing and encouraging environmentally sound methods of solid waste disposal which maximize the use of available resources. The assistance is to be accomplished via Federal technical and financial assistance to the state and regional authorities.

46. It should be noted that Section 6001 of the Act states that if the Corps of Engineers are required to dispose of hazardous dredged material, they will not enjoy immunity from State or local sanctions in respect to injunctive relief.

Endangered Species Act of 1973 (Pub. L. No. 93-205)

47. The intent of the Act is: a) to provide means to conserve the ecosystems upon which endangered and threatened species depend; b) to institute a program for the conservation of such endangered and threatened species, and c) to take the necessary steps to achieve the purposes of those existing treaties and conventions relating to the preservation and conservation of fish, wildlife & plants.

48. The Act is administered primarily by the Secretary of the Interior who issues the lists of species, the protective regulations, and the respective revisions. The Secretary of Commerce is empowered to recommend species to be added to the list from time to time. The Secretary of the Smithsonian Institute is authorized and directed to review endangered or threatened plant species.

49. The Act generally provides for the identification of endangered or threatened species followed by the implementation of a conservation program designed to protect those species. The appropriate Secretary determines whether any species is endangered or threatened by assessing available commercial and scientific data, and consulting with interested Federal and State agencies and other interested persons and organizations [Section 4(b)] The Secretary may also, to the extent he deems advisable, treat any species as endangered or threatened species, even though not listed as such, subject to certain qualifying considerations. [Section 4(e)]

50. Regulations are then promulgated under direction of the appropriate Secretary to provide for the listing of the species to be protected. The appropriate Secretary then issues the regulations necessary to protect the species pursuant to Section 4(d).

51. The policy directive calling for the establishment and implementation of a conservation program for endangered or threatened species empowers the Secretary with the authority: (a) to utilize the land acquisition and other authority under the Fish and Wildlife Coordination Act [16 U.S.C. Section 661-666 (1934)] , or as appropriate; and (b) to acquire by purchase, donation, or otherwise lands, waters, or interests therein as deemed necessary to protect and conserve the identified species. Such authority shall be in addition to any other land acquisition authority vested in the Secretary.

52. In carrying out the conservation program authorized by this Act, the Secretary is to cooperate to the maximum extent practicable with the states. Such cooperation consists of consultation with the states concerned before acquiring any land or water, or interest therein, for the

purpose of conserving any endangered species or threatened species.

53. The appropriate Secretary's vested authority to exercise land acquisition presents a direct impact on the use and site selection of DMCAs. The primary constraint on site selection of DMCAs would be found in Section 7 of the Act which requires Federal actions to be conducted so that the critical habitat of a listed species will not be threatened. To date there have been several injunctions against the Corps of Engineers to prevent DMCA sites within these areas. This is the worst possible situation that would confront the Corps of Engineers.

54. More likely, a DMCA would create additional land and, depending on the species, enhance the habitat. There would be an initial shock to the area ecosystem and species but such land use would be feasible absent the existence of a particularly sensitive creature. An appeal could be made to the appropriate Secretary to establish the fact that such land use would benefit a habitat by creating additional land on which endangered or threatened species could thrive.

Fish and Wildlife Coordination Act [16 U.S.C. Sections 661-666 (1970)]

55. The goal of the Fish and Wildlife Coordination Act is to provide recognition of the vital contribution and significance of wildlife to the Nation in light of the expansion of our economy and other factors. The Act insures that wildlife conservation shall receive equal consideration and be coordinated with other features of water resource development programs through effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation.

56. The Act invests the Secretary of the Interior with authority to provide assistance to and cooperate with Federal, State, and public or private agencies and organizations in the development, protection, raising, and stocking of all species of wildlife, their habitat, and resources therein. The Secretary is also empowered to conduct surveys and investigations of the wildlife of the public domain, including lands and waters or interests therein which are acquired or controlled by any agency of the United States. Section 662(b) requires that the reports and recommendations of the Secretary shall be included in reports of agency planning and activity in a wildlife area.

57. In addition to the general purpose requirements of the Act, the dredge activities of the Corps of Engineers is impacted by some procedural requirements. Any activity which is proposed by any department or agency of the U.S. to impound, divert or deepen the water of any stream or other body of water requires consultation by the proposing agency and the U.S. Fish & Wildlife Service, Department of the Interior and the equivalent State agency. [Section 662 (a)] The purpose of this requirement is to insure, for example, that any dredging operation and DMCA construction by the Corps of Engineers would be coordinated to include the Federal and State environmental concerns for wildlife areas, and to provide uniformity of such concerns.

58. The Secretary is also given authority to study the abatement and prevention of pollution which includes methods for the recovery of useful or marketable products of such waste. [Section 662(2)] The Secretary could, therefore, review a DMCA to assess its environmental effectiveness. It would be very beneficial to the Corps of Engineers to pay close attention to the Secretary's recommendations under Section 662(b) to prevent environmental reprisals after implementation has begun.

National Flood Insurance Act of 1968 [Title XI of Housing & Urban Development Act of 1968 (Pub. L. No. 90-448)]

59. The purpose of the National Flood Insurance Act of 1968 is to authorize a national program under which flood insurance can be made available to occupants of flood hazard areas through the cooperative efforts of the Federal Government and the private insurance industry. The program is administered by the Secretary of the Department of Housing & Urban Development, assisted by other government agencies involved in gathering necessary information and data.

60. An important public goal which the program offers is the encouragement of State and local governments to adopt and enforce appropriate land use provisions to establish guidelines for the future development of land which is exposed to flood hazard. Permanent land use and control measures promulgated by the State are to be consistent with land use and management criteria specified by the Secretary. Such land use criteria are developed on the basis of joint Federal-State-local studies and designed to spur adoption of State and local measures.

61. Any DMCA initiated by the Corps of Engineers would be subject to this Act if the proposed activity is in a flood hazard area, which is eligible for Federal aid. Landfill is regulated under the Act and must meet the requirements of the floodplain management program. [24 C.F.R. Section 1910.3(d)(6)] Although the National Flood Insurance Act of 1968 is administered by the Federal Government, its application is actually directed at the local jurisdiction wherein the floodplain areas are located. The specific aspects of suggested Federal floodplain mangement and examples of such measures can be found in Section 3.5.5 of this report.

Wild & Scenic Rivers Act [16 U.S.C. Section 1274 et seq., Pub. L. No. 94-486 (1976)]

62. In creating the Wild & Scenic Rivers Act, Congress declared a national policy to preserve the free-flowing condition of selected valuable rivers in the Nation and to protect their immediate environments. Congress further declared that the established national policy of construction work at those designated rivers should be complemented by a policy to preserve these rivers, their free-flowing condition, and the quality of their water.

63. The purpose of the Act is to institute a system of wild and scenic rivers which will include rivers which are authorized for inclusion by: (a) an Act of Congress, or (b) similar legislative action by the states through which they flow. The Act is administered by the Secretary of the Interior and/or the Secregary of Agriculture, where appropriate (for example, in national forest areas).

64. The Act is a basic policy statement but it does include impacts on DMCAs. The extent of Corps of Engineer involvements in these areas would be a dredging operation to aid recreational boating. There are provisions that would affect this operation and the site selection of the DMCA.

65. Initially, Section 12(a) requires all administrative and management contracts and plans affecting lands within the boundaries of the river basin to be approved by the appropriate Administrator. It should be noted that the Act provides for boundaries of an average of not more than 320 acres per mile on both sides of the river. [Section 2(b)] The large river basin jurisdiction precludes the possibility of creating a DMCA just outside the boundary since the cost of double handling dredged material would be prohibitive. On the other hand, no DMCA can be implemented within the protected area which has a direct adverse effect on the values for which the

river was established. In addition, Section 7(a) will not permit a DMCA to be established upstream of the wildlife river area which tends to unreasonably diminish the scenic, recreational, and fish and wildlife values of the area.

66. The Act lists 15 river areas which are established, 58 for potential addition, and strict guidelines for use in the establishment of other such areas to be protected by the Act.

3.1.2 Indirectly Impacting Federal Legislation

Environmental Quality Improvement Act of 1970 42 U.S.C. Section 4374, amended by Pub. L. No. 94-298 (1967).

67. The Environmental Quality Improvement Act of 1970 was established in conjunction with the National Envinronmental Policy Act Pub. L. No. 91-190 This Act carries the mandate of the National Environmental Policy Act (NEPA) a step further in that its purpose is to provide assurance that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under that and other such existing legislation as the Wild & Scenic Rivers Act, the Federal Water Pollution & Control Act, and the Coastal Zone Management Act (discussed previously).

68. In addition to extending the mandate of NEPA, this act establishes the Office of Environmental Quality which provides the professional and administrative staff for the Council on Environmental Quality, another product of NEPA. The Office of Environmental Quality then monitors Federal departments and agencies to ensure coordination with national environmental policy. The office would oversee DMCAs which are impacted by the previously mentioned legislation to further ensure cooperation with Federal Policy.

Marine Protection, Research and Sanctuaries Act of 1972
(Pub. L. No. 92-532)

69. This Act was a response by Congress to a growing recognition of the need for legislation to regulate ocean dumping and other man-induced impacts on the marine environment. Title I of the Act regulates the transportation and dumping of solid and liquid waste material in those parts of the ocean, coastal and other waters within the identified territorial jurisdiction of the United States. The Secretary of the Army, acting through the Corps of Engineers, may issue permits pursuant to Title I, after notice and opportunity for public hearings, for the transportation and dumping of dredged material into the ocean. Such dumping is permitted only after the Secretary determines that it will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

70. The definition of dumping under the Act specifically excludes construction of any fixed structure or artificial island. [Section 2(F)] This would put offshore DMCAs such as those in Anacortes, Washington, and Craney Island, Virginia, outside the scope of the Act. DMCAs would, however, be indirectly impacted by the comprehensive research program created thereunder. (Section 201) An extensive study of the long-term effects of ocean dumping carried out by the National Oceanic Atmospheric Administration, the Coast Guard, the Environmental Protection Agency, and all other agencies affiliated with ocean ecosystems might point to some aspect of DMCAs which interferes with ocean ecosystems and must be curtailed.

Rivers & Harbors Act of 1899 [(33 U.S.C. Section 401 et seq.)]

71. The Rivers & Harbors Act of 1899 contains general limitations on the construction on and obstruction of the navigable waters of the United States. Its purpose is to insure the continued maintenance of these waters to allow the free access of vessels. Any construction or obstruction of navigable waters is to be approved by Congress and the Corps of Engineers.

72. Section 401 of the Act prohibits the construction of any bridge, dam, dike or other structure without the consent of Congress and the approval of the Corps of Engineers. Construction plans must be submitted to the Chief of Engineers and approved. Section 403 prohibits any obstruction to the navigable capacity of United States waters, except if previously authorized by the Chief of Engineers and the Secretary of the Army. Obstructions include any wharves, piers, jetties or dredging or filling operations.

73. Section 407 of the Act specifically forbids the deposition of any material in any place on the banks of navigable waters, where such material is likely to wash into the water. While this appears to be a prohibition against DMCAs, the same Section specifically excludes from the provisions of the Act, operations which improve the navigable capacity of the water and construction which is considered necessary and proper. The Corps of Engineers may permit the deposit of any material in navigable waters if, in the opinion of the Chief of Engineers, navigation and anchorage will not be injured thereby.

74. While the Act has no direct impact on dredging operations as mentioned in Section 407, it would provide the Corps of Engineers with an excellent opportunity to require a guarantee that a productively used DMCA will be implemented as a condition to granting dredging and filling permits in

any navigable waters. In addition, any construction or obstruction which is applied for under Sections 401 and 403 might be approved by the Corps of Engineers with a recommendation of the implementation of a productively used DMCA. The Chief of Engineers could then direct Corps of Engineers developers and planners to study the area in question as well as existing DMCAs to provide a guideline for proper DMCA implementation.

Rivers and Harbors, Flood Control Acts of 1970 (Pub. L. No. 91-611)

75. The Rivers and Harbors, Flood Control Acts of 1970 is an enabling legislation pursuant to the River and Harbors Act of 1899. As such, it authorizes the construction, repair and preservation of certain public works on rivers and harbors for navigation, flood control and other purposes. The Act contains specific authorizations for work on identified rivers and harbors of the United States. It is administered jointly by the Corps of Engineers and the Environmental Protection Agency, which supplies information on the effect of dredge material on water quality.

76. Title I concerns navigation and beach erosion on rivers and harbors and Section 123 contains provisions regulating disposal facilities on the Great Lakes and their connecting channels. Title II of the Act deals with works of improvement for the benefit of navigation and the control of destructive floodwaters. All works of improvements under either Title are adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, in accordance with plans and subject to the conditions recommended by the Chief of Engineers.

77. Section 123(a) of the Act authorizes the Corps of Engineers to construct, operate and maintain DMCAs on

the Great Lakes, and to obtain the recommendations of the Environmental Protection Agency and local governments.

78. This Act provides the same opportunities as the Rivers and Harbors Act of 1899, for the Corps of Engineers to recommend and participate in the implementation of DMCAs. In addition, Title II allows the Corps of Engineers to consider the plans for the proper development of floodplain areas in conjunction with local governments (see Section 3.5.5 of this report).

Water Resources Development Act of 1976 (Pub. L. No. 94-587)

79. The Water Resources Development Act of 1976 is the most recent addendum to the Rivers and Harbors Act of 1899 (discussed previously). Like its predecessor, this Act also authorizes the construction, repair and preservation of certain public works on rivers and harbors for navigation, flood control and other purposes.

80. The Act provides for the implementation of advanced engineering and design of certain named water resources development projects in accordance with and subject to the recommendations of the Chief of Engineers. It also modifies the Rivers and Harbors, Flood Control Acts of 1970 (Pub. L. No. 91-611) in part.

81. The Secretary of the Army, acting through the Chief of Engineers is specifically authorized to participate in land use management of DMCAs. Section 148 provides that the Corps of Engineers is to use and encourage the use of management practices necessary to extend the capacity and useful life of DMCAs. This would allow the Corps of Engineers to survey areas and implement and position DMCAs based on in-house managerial decisions.

82. The Secretary of the Army, acting through the Chief of Engineers, is authorized under Section 150 of the Act, to plan and establish wetland areas as part of the water resources development projects under his jurisdiction. Establishment of any wetlands area in connection with the dredging required in this type of project is left to the judgment of the Chief of Engineers based upon various considerations including: (a) environmental, economic and social benefits; (b) increased cost of establishing a wetland area not in excess of $400,000; and (c) reasonable evidence that the proposed wetlands area will not be altered or destroyed by natural or man-made causes.

83. This Act is not a direct impact on DMCA use and site selection, except to the extent that if DMCAs are used in establishing wetlands areas under Section 150, there is a cost limitation. The Act authorizes the Corps of Engineers to establish management criteria for land use of DMCAs and enhances, rather than constrains, their involvement in the implementation of DMCAs. Engineers and planners of DMCAs would merely be required to follow existing Corps of Engineers management policy in projects or navigable waters and floodplain areas as outlined by the Act and would not be subject to review by other agencies. It should be noted, however, that local floodplain management as sanctioned by Title XI of the Housing and Urban Development Act of 1968 (Pub. L. No. 90-448) would seem to preempt Corps of Engineer projects in flood hazard areas. Floodplain management will be discussed in the city and county section of this report (Section 3.5.5).

3.1.3 Institutional Arrangements at the Federal Level

84. Institutional arrangements at the Federal level exercise control over all lands within Federal jurisdiction. This includes national parks and forests, United States navigable waters, military basis, and other government installations.

85. The Federal government is not extremely active in land use management and control. Despite the fact that the Federal government is the major land holder in the United States, local interest in maintaining and controlling land use has historically weighed in favor of the State and local governments. In addition, with the exception of land bordering navigable waters, the character of Federally-owned land is such that alternative land uses are limited to the purposes or types of Federal land involved. Parks, forests and bases will have little need for DMCAs due, in part, to relatively limited public exposure. A DMCA might be used in a national park to prevent erosion or widen a stream, but the land use of that DMCA would be limited to the preservation of the natural habitat.

86. In addition to the permit and policy requirements of the Federal regulations mentioned previously, attempts by the Corps of Engineers to implement DMCAs in various locations will be overseen by certain corresponding Federal agencies. The Department of the Interior is the institutional arrangement for land management in the national parks. The United States Forestry Service oversees DMCA activities in national parks. Again, however, the likelihood of DMCA implementation is not very great compared to urban areas which have a greater need for land use controls.

87. There would be a greater need for DMCA implementation along our nation's navigable waters. The institutional arrangement delegated to these areas by the authority of the Rivers & Harbors Act of 1899 (33 U.S.C. Sections 401-413)

is the Corps of Engineers. The combined authority of the Act, with the management powers mentioned in this section, give the Corps of Engineers their best opportunity to implement DMCAs and provide suggestions for land use. which are compatible to the shores of such navigable waters.

88. It should be noted that if any DMCA implemented by the Corps of Engineers became a grassland, the Department of Agriculture would be the institutional arrangement.

3.2 TRENDS OF STATE LAWS DIRECTED AT ENVIRONMENTAL PROTECTION

3.2.1 Introduction

89. The State laws impacting land uses of DMCAs are numerous and varied in the type of impacts evidenced. Some laws have a direct impact on the land use allowed, while others have only a peripheral impact. Sixteen states were surveyed for the types of laws each had enacted. A list of the states studied include:

California
Florida
Georgia
Illinois
Louisiana
Maryland
Massachusetts
Michigan
Mississippi
New York
North Carolina
Oregon
Texas
Virginia
Washington
Wisconsin

90. Two major categories of State laws were identified; those directed primarily toward land use control and those directed toward environmental protection. The two categories are not mutually exclusive and much crossover in fact exists. However, the "environmental laws" are generally more recent legislation, are broader in scope and emphasize preservation of lands and other natural resources.

While these laws often have a significant impact upon land use, their primary purpose in enactment was to preserve the environment. Laws surveyed which were directed at environmental protection include:

a. Wetlands protection laws (includes shoreline or coastal and freshwater wetlands laws);
b. water quality laws;
c. wild and scenic river system laws; and
d. wildlands protection or land conservation laws;
e. fish and game habitat protection laws;
f. environmental impact assessment laws.

91. This section deals with the trends found in these various sub-categories. Usually the laws of the States of California, Florida, and Oregon will be discussed as they tend to reflect the trends throughout the country. However, in some instances, other states better illustrate the direction in which the states are moving. Some laws, for instance, the wild and scenic river system laws and the environmental impact assessment laws, have been enacted in response to the Federal Wild and Scenic Rivers Act and the National Environmental Policy Act. In the states having enacted these laws, there is little variety from state to state. Therefore, rather than discuss several State's laws. a detailed discussion of the general sub-category of law is presented.

92. The six sub-categories of environmental laws were selected because they tend to have the most direct impact upon land use of DMCAs. Other laws, such as air quality and solid waste management, will have some impact on DMCA land use. However, such sub-categories were considered to have only an indirect effect upon DMCAs and thus were not summarized for this report.

3.2.2 Wetlands Protection Laws

93. Many states have enacted legislation that restricts land uses allowable in wetlands areas. This type of legislation includes shoreline acts, coastal acts, inland waterways acts, and others directed at water/land interface areas. Different states use diverse terminology for the same general type of law. Frequently a state will adopt several laws dealing with different types of wetlands, for instance, coastal wetlands and inland wetlands.

94. This type of law generally requires a land use plan that establishes allowable uses within the wetlands area. The plan may be drawn by the State agency or by local agencies, often requiring approval by a State agency. The State law frequently provides a list of land use priorities, generally aimed at preservation and conservation of the wetlands' natural state. Once a plan is approved, the land uses allowed in the wetlands area are restricted to those compatible with the plan. Under most of the laws, any type of development or construction in the area requires a permit. This type of law will generally have a direct impact on the land use of DMCAs, requiring conformity with the wetlands plan. The trend is toward more comprehensive planning and limiting development in presently undeveloped areas. Two methods by which states are handling the issue are discussed below. Both have a significant impact on productive uses of DMCAs.

95. California has three separate acts under the wetlands category. The most significant act in terms of its effect on productive uses of DMCAs is the California Coastal Act. This requires that local governments adopt land use plans which conform to land use priorities established by the Coastal Act. The plans must include provisions for: maximum public access to coastal areas; protection of areas suitable for water-oriented recreation; protection of the marine environment, which requires

that dredging activities be planned so as to mitigate adverse environmental effects; protection of environmentally sensitive habitat areas; and limited conversion of agricultural lands. New development should be located as close as possible to existing developed areas, with coastal-dependent developments given priority over the development. Permits are required from regional coastal commissions for any type of development. A significant amount of coastal land presently under the planning and permit authority of the California Coastal Commission is also within the port districts' authority. Port districts are required to develop their plans separately from local jurisdiction for land use within their area of authority.

96. The Coastal Act specifically exempts the area around San Francisco Bay. This area is controlled by the Bay Area Conservation and Development Commission (BCDC) under the McAteer-Petris Act. This Act, established prior to the Coastal Act, has substantially the same purpose and authority over land use as that encompassed by the Coastal Act. The Act was designed to prevent further uncoordinated and haphazard filling of the Bay. A comprehensive plan was adopted to coordinate development in and around the Bay. A permit is required for any activitity or function within the BCDC's jurisdiction.

97. The third act impacting wetlands is the Wetlands Preservation Act which is administered by the Departments of Fish and Game, and Parks and Recreation. This Act gives the respective agencies the authority to plan for wetlands preservation and to purchase real property interests including development rights, when such interests will further the public interest. At present, an agency's only authority over control and uses is over land to which it has acquired property rights.

98. The approach taken in Massachusetts is somewhat different than in California. Designated wetlands areas are subject to stringent land use controls designed to preserve the area's natural state. Specific uses are designated and are rigidly adhered to. In other wetlands areas, not subject to the stringent controls, activities are judged on a case-by-case basis, as to their effect on the environment.

99. The Coastal Wetlands Protection Act and the Inland Wetland and Floodplain Protection Law are a means by which designated wetlands areas have permanent restrictions placed upon land use. Specific areas to be protected have a number of allowable uses, primarily limited to recreation, fishing, wildlife preservation, and agricultural activities such as grazing. Permits will not be issued for other uses. If the restrictions amount to a "taking", the landowner will be compensated.

100. In wetlands areas not specifically designated as preserves, the Wetlands Protection Act will be applicable. This provides that before any activity which would remove, fill, dredge or alter any freshwater or coastal wetlands commences, approval must be obtained from local commissions and the Massachusetts Board of Environmental Management. Violation of this law may result in a fine and/or imprisonment.

3.2.3 Water Quality Laws

101. All states have some type of water quality control laws. These laws are basically directed at discharges into State waterways or at activities affecting groundwater systems. They have an impact on allowable land uses in that any proposed land use that may involve an impact on water quality will be subject to these laws. However, these laws will have only an indirect effect on land use as the primary concern is to control water quality. A more direct impact,

though, is found in some State water quality laws where the State water quality control agency is given authority to regulate construction activities in or near State waterways. Although their primary area of concern is water quality, the law may allow restrictions to be placed on land use when the proposed use would affect water quality. This type of law often attempts to regulate dredge and fill activities based on the authority to prevent water quality violations. Few of the State laws surveyed attempted to regulate construction activities. Thus, the trend in this area appears to be toward providing only indirect impacts upon land use through water discharge controls. Several of the laws which will have a direct impact upon land use are discussed to illustrate the types of laws which may be encountered.

102. Florida's Air and Water Pollution Control Act gives the state the authority to control dredge and fill activities in order to protect water quality. A permit is required for such activities. An application must specify expected productive uses; presumably, such uses which may impair water quality will not be allowed.

103. In Illinois, permits are required for any activity which involves a discharge, deposition, or construction in state controlled waters. Exceptions to this include dredged materials of any reclamation or filling project of Lake Michigan which is authorized elsewhere by statute, and activities under the supervision of a park district if dredged materials are so placed so as to not cause a discharge into Lake Michigan.

3.2.4 Wild and Scenic River System Laws

104. A growing number of states are enacting laws that restrict land use along rivers or segments of rivers that are designated as wild, scenic and in some cases, recreational.

Once an area has been designated, the state will control uses within a specified area in and along the river. Land use controls are generally based on how the river is designated. A wild river or river segment is one that is free of impoundments and diversions, inaccessible to the general public except by water or trails, and undeveloped. Such areas are to be maintained in their wild condition. Scenic rivers are those generally free from diversions and impoundments, having limited access by road, and largely undeveloped or used primarily for agriculture and forestry. Uses within scenic areas are designed to restore the river's natural scenic qualities with only limited dispersed development. Recreational rivers are readily accessible by road and railroad and may have some development and impoundment or diversions. Uses are designed to preserve the rivers recreational qualities, including public access, recreation areas and small community developments.

105. Most of the states that have enacted this type of law follow this method of river classification and use restrictions. The laws are similar in substance to the Federal Wild and Scenic Rivers Act and allow the states to designate additional rivers to be preserved. They will have a direct impact upon productive uses of DMCAs in that quite often dredged material must be transported long distances from the dredge site so as to preserve the wild character of the river. However, it may be possible in areas designated as recreational, to allow productive uses of DMCAs which enhance the recreational qualities of the river such as recreational facilities and small residential developments.

3.2.5 Wild Lands Protection or Land Conservation Laws

106. Many states have enacted laws that restrict land use in designated wilderness areas. These areas may be designated as wildlands, wilderness areas, natural areas or historic

areas depending upon the state. However, designated areas are limited to State-owned lands, including land currently owned by the state and areas it decides to purchase. The trend is to restrict all uses which alter the natural condition of the area and to allow only such low intensity uses as hunting, hiking, or fishing. A few states have legislated authority to acquire areas to be preserved, but have not enacted laws which actually preserve these areas once acquired. In those states which do restrict land uses, it is doubtful whether a DMCA would be permitted in the area at all.

3.2.6 Fish and Game Habitat Protection Laws

107. All states have laws of some type directed at the protection of fish and game. The basic thrust of most such laws is to regulate hunting and fishing activities, as well as maintain conservation facilities for wildlife. These laws will have an indirect impact upon DMCAs when the authority is also granted to enjoin activities which threaten the habitat of certain species of wildlife. Fish and game agencies will obviously have the authority to control land uses in State game preserves. However, the trend is to grant the State agency authority to enjoin land uses, outside State preserves, that are not compatible with the habitat of protected species. This authority may operate, in effect, to enjoin any activity in a protected species habitat area.

108. California's Wildlife Conservation Board must approve any proposed construction activity which would alter the natural flow or bed, channel or bank of any body of water in which there are fish or wildlife. Before such activity may proceed, modifications must be made in the proposed construction to allow for the protection of the fish or wildlife resource. Exempted from this requirement are routine maintenance activities of existing facilities unless such work involves substantial

changes affecting fish and wildlife. This law will more directly relate to initial dredging rather than affecting final land use of DMCAs. Indirectly, however, objections to the loss of fish and wildlife values are often overcome when the benefits of a proposed water-related facility override the concern for wildlife protection.

109. Washington's Department of Fisheries and Department of Game jointly require permits for any hydraulics activity within the wetted perimeter of the State's waters in order to protect fish life. The Act requires that activities that use, divert, obstruct, or change the natural flow or bed of a river or stream be expressly authorized by the Departments. Often, projects may have to be greatly altered, using the Departments' recommendations and objections before a project may proceed.

3.2.7 Environmental Impact Assessment Laws

110. Many states have followed the lead of the National Environmental Policy Act (NEPA) and have enacted similar legislation, sometimes referred to as "little NEPAs". These state laws require State or local agencies to file a report which assesses the environmental impacts of proposed agency actions which may significantly affect the human environment. While the State laws are patterned after NEPA, slight variations often arise when they are enacted. One such area is the type of activities which require the filing of a report. For instance, California requires a report for any "project" which potentially could have a significant impact; New York uses the term "action" which includes projects, activities, policy-making. Washington's terminology is "proposals for legislation and other major actions"; while Massachusetts attempts to encompass all in stating, "any activity,

work, or project." Whether these distinctions will have a significant effect upon the filing of a report in various states will depend on court interpretations. Another area of variation is the authority to issue an injunction to stop a project with significant adverse impacts. A few states provide the express authority, however, many incorporate no such express authority to enjoin actions. Thus, in these states, court interpretations are necessary to indicate that such implied authority exists, so that the express policy of the acts may be carried out.

111. Many Corps-dredging projects involve local sponsors which purchase the land rights necessary to carry out the project. Thus, in addition to meeting the NEPA requirements, the State filing requirements must also be met. Often, if the Federal requirements are followed, State law exempts the project from further State requirements. Another method, as adopted in Washington, coordinates all the report requirements so that only one document need be prepared. In the absence of either alternative, it may be necessary in some states to comply with both State and Federal requirements.

112. As can be seen, this type of law will have a direct impact upon production uses of DMCAs. Although land uses are not directly restricted by the State laws, studies and mitigating procedures must be followed in an attempt to reduce the adverse environmental impacts associated with a proposed use.

3.3 TRENDS IN STATE LAND USE LAWS

3.3.1 Introduction

113. The State laws directed toward land use regulation often have a significant impact upon DMCAs. As in Section 3.2, only the State laws considered to have the most direct impact upon DMCAs were studied. The types of laws studied include:

a. State land use and land use planning;
b. public land laws controlling State-owned lands or submerged lands;
c. sediment or erosion control;
d. floodplain protection;
e. agricultural zoning; and
f. other laws.

The 16 states surveyed for laws directed toward environmental protection were also surveyed for the above-mentioned land use laws.

114. As originally enacted, most land use laws provided for local government regulation of land use. However, with land becoming a scarce commodity, states are finding that decisions made at the local level have a significant State-wide effect. Thus, there is a noticeable trend away from local control and toward State regulation. Frequently, a state will not take complete control, but will enact guidelines for local governments to follow. To illustrate these State trends, a number of different types of State laws will be discussed.

3.3.2 State Land Use and Land Use Planning Laws

115. The laws in this category include those where the state has taken express and direct control over land use planning and/or land use controls. The laws in many states can be characterized as State zoning laws. A number of states have ventured into this area of direct State control over land use and development. This area of legislative action has traditionally been relegated to local government. As a result, State entry into this area has met with staunch resistance. Such laws do currently exist in a few states and, with increasing populations and land use pressures, State land use regulation may be more prevalent in the future.

116. The trend in this category is to set aside areas that are considered to be of "critical State concern," and place restrictions on the use of such land. They may also subject developments, which have a "regional impact", to State-imposed restrictions. Some of the states have laws which require development of a State land use plan but which, as yet, give the state no authority to require conformance to the plan, once developed. The State planning agencies in these cases are advisory only, but may influence local planning efforts through technical or financial assistance.

117. In California, the Office of Planning and Research is given the duty to develop State land use policies and to assist local planning efforts. However, the Office has no real authority over plan implementation, although they can require plans to incorporate specific elements. The Office of Planning and Research presently does not have the authority to directly impact land uses of DMCAs, but its influence would be reflected through the implementation of local land use plans. The scope of its authority could be increased through future legislation. The state may decide to directly control areas designated as

being "of critical State concern" after on-going State planning efforts are completed.

118. In Florida, land use controls have been adopted which are implemented at the State, regional and local levels. Under the Florida Environmental Land and Water Management Act, the state may designate areas of "critical State concern" and then regulate uses of such land. These areas may comprise up to 5 percent of the total land in the state. Subject to State approval, local governments may enforce the State's land use restrictions.

119. Under the Regional Development Section of the above Act, the state has the authority to determine if a development project may have a "regional impact". If so, local governments are required to consider the environmental impacts before local permits are issued. This procedure is similar to that of filing an environmental impact statement and presumably uses with significant adverse impacts are restricted.

120. The Local Government Comprehensive Planning Section requires that local governments prepare plans in conjunction with State and regional plans. Prior to the adoption of a local plan, State and regional agencies may make additional recommendations to ensure that the State and regional guidelines are followed.

121. The most unique State land use act is that found in Oregon. The Oregon Land Use Act is the strongest of the State attempts to issue land use and planning laws which have been traditionally controlled by local governments. The Land Conservation and Development Commission (LCDC) is authorized to establish State-wide planning goals and guidelines, to prepare model zoning ordinances, and to review local and regional plans to insure that they conform to the State-wide goals. Although local and regional agencies retain most of the regulatory

authority, local regulations must conform with LCDC State-wide goals and planning guidelines. Activities which are of State-wide significance require final approval by the LCDC. A number of goals have been established in the adoption of local comprehensive plans. These include: A citizen involvement program to assist in planning; procedural requirements for land use planning; a system for preservation of agricultural, forest, open space, scenic and historic lands; requirements for air and water discharges in addition to existing State and Federal rules; planning in areas of natural disasters or hazards; adequate recreational areas; a diversified economy; adequate housing; provisions for public facilities and services appropriate for urban and rural areas; meeting of transportation requirements; conservation of energy; establishment of urban growth boundaries; and conservation of estuarine resources, coastal shorelands, beaches, dunes, and ocean resources. It is also provided that local, State and Federal agencies develop plans for the disposal of dredged material. Disposal is encouraged upon uplands first or in ocean waters and in estuaries if adverse effects are mitigated.

3.3.3 Public Land Laws Controlling State-Owned Lands or Submerged Lands

122. Laws in this category control land owned by the state, but are generally restricted to land surrounding waterways and submerged land. Where the state owns the land that is used as a DMCA, the state will attempt to exercise control over the use of such land, by a number of different methods. One method is to establish a priority of uses for State-owned land. Another type is that which proclaims State ownership of waterbottoms or submerged lands and directs use of such lands for public or other expressly stated purposes. Also included in this category are laws which establish a charge for the use of State-owned bottom materials. The charges often vary according

to the use to be made of the material and in so doing, provide economic incentives for particular uses. Often a state will use a combination of several of these methods to achieve the desired control over State-owned land. However, no trend can be seen toward the use of any one particular method.

123. In California, the State Lands Commission is given specific ownership authority over certain tidelands and submerged land as well as the beds of all navigable rivers, streams, lakes, bays, estuaries, inlets, and straits. It is given discretionary authority to charge a fee for dredged material taken from State waterbottoms. The decision as to whether to levy charges for material depends upon the Commission's determination of what is in the "best interests of the State". The authority to charge for material will affect the final use in that "no charge" alternatives will tend to be the most economically feasible, and thereby encourage the creation of fast land for such use.

124. In Florida, the Land Acquisition Trust Fund requires that the Corps certify that no public land is available before dredged material is placed on private land. Before material is placed on private land it must first be advertised for sale with the dredged material sold to the highest bidder; the funds from such sale going to the Trust Fund. If the material is placed on public land with a subsequent sale of the land upon which deposition took place, one-half the proceeds go to the Trust Fund and the remainder to the public body owning the land. The title to all lands created is vested in the state. Prior to any sale of such lands it must be determined that such sale is in the public interest and use will not interfere with the lands natural resources. As applied to DMCAs, land created upon public land would be controlled by the state; material placed on private lands, thereby creating DMCAs, would be restricted by local land use controls.

125. Oregon has two laws dealing with the dredge and fill of State submerged land. The first of these requires that a permit

be issued to dredge and fill. However, activities of the Corps are exempted from the permit requirement.

126. The second law authorizes the state to charge a royalty for dredged land. Dredged material is exempted from a charge if the dredging is for channel or harbor improvement, flood control, or if the dredged material is used for filling or reclaiming land within one-half mile from the dredging site or up to two miles for State-owned land. Neither of Oregon's laws would appear to have much of an impact upon DMCAs.

3.3.4 Sediment or Erosion Control Laws

127. Many states have enacted legislation dating from the 1930's designed to control erosion. This type of law might be characterized as a State building code, in that construction activities are directly regulated by the state. The purpose of these laws is to control erosion caused by agricultural activities and more recently, construction activities. This is often accomplished through State regulations and permit systems which ensure the use of proper techniques for activities which cause surface disturbance. In some states, regulatory authority is delegated to local governments, although conformity with State guidelines is often required. A few of the states permit local governments to enact regulations which may be stricter than State guidelines. Government regulations often specify grading and other ground disturbance guidelines, as well as provisions for revegetation of disturbed areas. Oftentimes the use to be made of the DMCA is not directly affected by such laws but when a project may entail substantial ground disturbance or changes in surrounding drainage patterns, the costs to comply with State or local regulations may indirectly impact the planned use. A recent trend in this area is toward the regulation of construction activities in beach and coastal areas. However, these laws are often combined with wetlands protection laws and will be discussed under that category.

128. In California no pertinent laws were found under this category.

129. Florida has two laws aimed at erosion control. The Beach and Shore Preservation Act authorizes the state to establish setback lines along the coastal area. Land uses involving construction activities seaward of these lines are prohibited unless a permit is obtained. The coastal area lines generally are those areas necessary to protect the beach from erosion, and structures from erosion and hurricane damage. Beaches with vegetation of a non-sandy type are exempted from the setback provisions. Waivers are granted to activities which will not cause significant erosion damage. According to an opinion by the Florida Attorney General, this law gives the state regulatory control over beach restoration projects of the Corps.

130. Florida's second law is designed to give local soil conservation districts full regulatory authority. The State agencies involved with the law perform generally an advisory function. Their duties involve making soil conservation studies and recommendations to local districts, as well as securing the assistance of Federal agencies. Local districts may enact land use regulations governing land within their respective districts. The law encourages the inclusion of provisions for proper methods of cultivation and cropping, the timely retirement from cultivation of highly erosive areas, as well as programs for the conservation of soil resources. Authority is also granted to make reasonable inspections to enforce compliance. In determining land use of DMCAs, local regulations will have to be consulted.

131. Oregon's law is similar in that local soil and water conservation districts administer the Act. However, the State agency acts in more than an advisory capacity. Although local areas are not required to form districts, once having done so, State approval is required for all local projects and land use regulations. This system provides a more consistent pattern of land use regulation of DMCAs.

3.3.5 Floodplain Protection Laws

132. Due to the impetus provided by the Federal Flood Plain Insurance Law, many states have enacted floodplain protection laws. The Federal law requires State-controlled land uses in floodplain areas before Federal insurance against flood damage will be provided. States have responded to this incentive with laws that require State or local planning and zoning designed to restrict land use and to regulate construction in areas subject to floods. A variety of methods have been adopted to implement these laws. Most of the states have delegated their authority entirely to local governments, with some providing that all local plans must first be approved by the state. Others will allow local government implementation, however, upon failure to so perform, the state will adopt its own program for the area. In a few states, local government have no authority, as the plan is administered on the State level.

133. A number of provisions, designed primarily to lessen the danger of flood damage, have been adopted. The laws generally prohibit construction of any structure which may endanger life or significantly restrict the carrying capacity of the floodway. Provisions are often made for waterproofing of structures remaining in the floodplain and restrictions of the elevation of structures. Land uses often allowed in floodplains include agriculture, some industrial-commercial uses, recreation, public utility lines, streets, docks, and dams. All uses of DMCAs in floodplain areas should comply with the land use restrictions of the area.

3.3.6 Agricultural Zoning Laws

134. The expansion of urban and suburban areas has decreased farm acreage in many states. As a result, many states are beginning to enact legislation designed to conserve existing farm acreage. These laws generally fall into two major categories.

In the first category, property tax incentives are provided wherein the farm owner pays a lower property tax based on the crop yield of the property rather than on surrounding urbanized land values. Land which benefits from this tax advantage is subject to sale restrictions in that the higher tax must be paid for prior years if the property is sold for other than farm purposes within a certain specified time. Laws of this type will only have an indirect impact on land uses of DMCAs. Although uses would not be restricted to agricultural in nature, tax incentives are designed to encourage agricultural production.

135. A second type of law creates agricultural preserves. Land use within a preserve is often restricted solely to the production of agricultural commodities or compatible farm uses. Laws of this type could have a direct impact upon DMCAs if a DMCA is designated as an agricultural preserve. The trend is toward the enactment of this type of legislation. The Legislature in California is currently considering a bill which would allow the state to designate certain areas as agricultural. The effect of this will be felt in many local development plans which provide for planned phased development in agricultural areas.

136. In Maryland, legislation has been enacted that provides for the designation of certain land areas as agricultural preserves. Once a land area is designated a preserve, its further use is restricted solely to the production of agricultural commodities. Upon obtaining an easement to the land, the state may permanently restrict it to agricultural and woodland uses.

137. New York's Agricultural District Law allows local groups of farmers to create agricultural districts. Once an area is designated as an agricultural area, all non-farm uses are restricted. If there is a strong demand for a non-farm use in the area, the

county and State may change the district's boundaries, however this change can occur only at eight-year intervals and the request may be denied, regardless of local wishes.

138. Michigan has a Farmland and Open Space Preservation Act which provides tax incentives for preservation of farmland and open spaces. Upon state approval, land maintained in accordance with a development rights agreement is taxed at a lower rate than if it were used for other purposes. Land relinquished from the agreement or used for other purposes is subject to back taxes not paid because of the agreement.

3.4 INSTITUTIONAL ARRANGEMENTS IN APPLICATION OF STATE LEGISLATION

139. The institutional arrangements at the State regulatory level reflect the scope of State regulation of land use and environmental protection. They manage the State-owned lands and other lands within the state through several overlapping agencies to achieve the highest and best use possible in the State boundaries. It should be noted that land at the bottom of a river or a harbor in a state belongs to the state, as long as it is not a Federal reserve. As a result, the land resulting from the dredging of such water body also belongs to the state. Normally, however, the land is turned over to the city or port district where such body of water lies.

140. The most significant institutional arrangement in the state is the State council on environmental quality, part of the "little NEPA" described in the previous section. A stiff regimen of reports must be filed before any activity which will significantly affect the human environment is to begin. Planners and developers of DMCAs must meet Federal environmental policy standards, as well as those belonging to the state.

141. The State coastal commission is the institutional arrangement for the coastal regions of the state. When implemented according to Federal guidelines, coastal regulations have exhaustive provisions which place a burden on applicants for productive use projects in coastal areas. Permits are required for coastal activities enabling coastal commissions to oversee the legislative mandates of coastal acts. Similar provisions exist for wetlands protection acts, but the restrictions are not as severe.

142. The institutional arrangements in State water quality areas are the water quality control agencies. Here, the states have differed in that some agencies are management

bodies for the dredge and fill activities in or near the State waterways. The entity responsible for the highest and best use of natural habitats of fish and wildlife within State-owned land is the State conservation or wildlife protection board. In order to manage these areas and retain the natural state, these boards also require express authorization prior to any construction or related activity within the protected area.

143. There is also a need at the State level to regulate the uses of State-owned lands, as briefly mentioned at the opening of this Section. A state will generally own submerged land, land surrounding waterways, tidelands, and any land which is retrieved from these areas. The institutional arrangements to manage this land in lieu of State legislation is the State land control board or lands commission. The regulatory system must determine the productive uses which are compatible to the area and manage the site selection of dredged material from the depths of these areas.

144. Institutional arrangements for the management of flood hazard areas provide an excellent opportunity to identify an entity of control that spans the Federal, State and local hierarchy of laws (see Appendix B). Floodplain management is a product of Federal legislation and the institutional arrangement to monitor the implementation of flood protection programs is the Department of Housing and Urban Development. While the states have been granted the authority to institute these programs and become eligible for low-cost Federally-backed insurance, most of them have delegated this authority to the local governments. Local institutional arrangements in flood hazard areas will be discussed in Section 3.5.8.

3.5 CITY AND COUNTY CONSTRAINTS

3.5.1 Introduction

145. This following section summarizes information obtained through letter contacts with selected local jurisdictions within the 16-state sample, telephone and letter contacts with the Federal Housing and Urban Development Administration, and through literature review. City and county constraints on productive uses of DMCAs were found to be primarily local zoning ordinances and building codes. Because of the importance of zoning ordinances and building codes, this section includes a summary of the American Law Institute's Model Land Development Code (MLDC) and the International Conference of Building Official's Uniform Building Code (UBC). Many zoning ordinances are patterned after the MLDC. Local building codes often closely follow the recommended provisions of the UBC. The MLDC and UBC summaries are preceded by a summary of information obtained from the selected local jurisdictions. Following the MLDC and UBC summaries is a summary of local floodplain management programs. Floodplain management programs are developed pursuant to HUD guidelines. They are implemented for the purpose of obtaining Federally-backed insurance in flood prone areas. Floodplain regulations are often contained in zoning ordinances but are separately summarized because of their significant impact on DMCAs. The Seattle Shoreline Master Program and the Chicago Lakefront Protection Ordinance are separately summarized because both are unique in that no other local jurisdictions indicated the existence of similar programs. The Seattle program is unique in the detailing of the restrictions placed on DMCAs.

3.5.2 City and County Land Use Constraints Matrix

146. A letter of request containing a list of possible local constraints was developed and sent to 55 selected cities and counties in the 16-state survey. A sample of the letter of request appears in Appendix D. Very few of the responses contained references to all constraints suggested in the sample form. In most of the city and county governments responding, applicable regulations were said to be contained in building codes and zoning ordinances. The City and County Matrix (Appendix E) is thus broken down to include these two indices. The matrix presents responses received from cities and counties.

147. Of the 48 cities and counties responding, 93 percent have building codes which constrain the productive land uses of DMCAs. In addition, 89 percent of the cities and counties indicated that their zoning ordinances would impact DMCAs. Many of the subject areas on the list of constraints are contained in either building codes or zoning ordinances. For example, the zoning ordinances of 54 percent of the responding local governments encompass regulations pertaining to conditional use permits, height limitations, zoning variances, land development permits, nonconforming-use permits, setback change ordinances, and special-use permits. Over 36 percent of the city and county building ordinances include excavation, grading, and septic tank permits. Furthermore, 26.1 percent of the responses indicated the presence of building codes which include foundation requirements. Over 12 percent of the cities and counties had dredging and conservation guidelines which were handed down from their respective State's environmental agencies.

3.5.3 Model Land Development Code Provisions

148. The Model Land Development Code (MLDC) represents an attempt at unification of the many types of zoning ordinances in actual and expected use across the nation. As its name suggests, the MLDC is a pattern to be used for the creation or revision of local (city and county) zoning laws; because of its potential utilization, it has an impact on the local government's regulation of DMCAs within its jurisdiction. Several sections in the MLDC are germane to this study.

149. The primary concern of the MLDC is with planning the physical development and controlling the exterior appearance of the land. Housing codes, fire codes, and public health codes are not within the scope of the MLDC. It focuses upon the proper location and intensity of land use activities as well as the design and the location of structures and facilities that serve the activities.

150. Article 1 of the MLDC designates the local government as the primary authority for regulating development. [Section 1-10(1)] Cities and counties adopting the MLDC are encouraged to give their local governments the power to "plan, or otherwise encourage, regulate, or undertake the development of land in accordance with the Code." (MLDC Section 1-102) If adopted by a city or county government, the MLDC would require compliance by Corps of Engineer developers with the local land development plan. A proposed dredging operation would then require an evaluation of the general plan of the MLDC as well as that of the particular city or county to insure acceptance of the DMCA. It should be noted that the MLDC does not contain environmental restrictions. Federal law mandates State environmental legislation, which in turn creates local restrictions. Consequently, an evaluation of the MLDC must include continuous consideration of Federal

law [e.g., Clean Air Act, Federal Water Pollution Control Act and Coastal Zone Management Act (discussed individually in the Federal section)].

151. Dredging is not specifically included in the terms of the MLDC but it is felt that several references in the Code show an intention to directly regulate dredging and DMCAs. There is a general reference to such activities in the definition of development in the Code which is defined in part as "the performance of any building or mining operation ... or making any material change in the use or appearance of a structure or land." [MLDC Section 1-202(1)] The deposit of "refuse, solid or liquid waste or fill on a parcel of land" is specifically included in the MLDC's definition of development. [MLDC Section 1-202(2)(e)] Finally, development is further defined as consisting of the alteration of a shore, bank, or floodplain of a seacoast, river, lake, stream pond or artificial body of water. [MLDC Section 1-202 (2)(i)] The addition of dredge-related operations to the definition of development within the meaning of the Code subjects dredging engineers to all sections of the Code which pertain to development.

152. Cities and counties adopting the MLDC or similar codes would require permits for any development undertaken in their jurisdiction, as well as a comprehensive land development plan to aid the recognition of the environmental, social, and economic effects associated with a dredged material containment area. (MLDC Sections 2-201 and 3-102) Choosing a site for a containment area might entail the acquisition of the land to be covered in a large-scale development. According to the MLDC, this is a permissible public purpose and the State land planning agency may institute condemnation proceedings. (MLDC Section 5-201)

153. Zoning ordinances such as these could impact on productive uses of DMCAs because of their interconnection with

land use. Any consideration of a site should include close scrutiny of local zoning laws.

3.5.4 Uniform Building Code

154. The Uniform Building Code (UBC) was promulgated to aid in building classification and verification of compliance with building codes. The UBC regulates such categories as construction, exit requirements, and exit regulations. Portions of the UBC are in use in various city and county ordinances across the Nation. Several requirements of the UBC impact on the productive use of DMCAs and should be noted by Corps developers and planners.

155. Chapter 70 of the Code regulates excavation, grading, and filling. No permit for landfill may be obtained without the approval of the city building official. In addition to providing plans of the proposed site at the request of the city building official, the application for the permit must contain a soil engineering report regarding the nature, distribution, and strength of existing soils. [Sections 7706(d)(1) and (e)] No permit is required, however, for landfill or grading projects when done in an isolated self-contained area with no apparent danger to public or private property. (Section 7003)

156. The most intense constraints on upland deposition of dredged material are the drainage requirements for fill sites, that if adopted by local jurisdictions, would require a six foot wide terrace for every 30 vertical feet to prevent erosion. [Section 7012(b)] Fill slopes may be no steeper than 2:1, which places a limitation on volume capacity of the fill site. In addition, no more than minor amounts of organic substances are permitted to be contained in fill material according to the Code. However, it is felt that current Corps of Engiener technology used to satisfy EPA pollutant requirements satisfies this standard.

157. Assuming the landfill site is in compliance, the UBC also sets various building requirements. Permits must be obtained from the city building official prior to constructing, repairing, improving, or demolishing any building or structure. [Section 301(a)] In addition, all buildings should be designed and constructed to resist stress produced by earthquakes. A 1976 revision of the UBC would encourage the building official to require the installation of earthquake recording devices in buildings if he deems it necessary.

158. Another hurdle to overcome in the successful implementation of productive uses of DMCAs is found in the UBC's foundation requirements. Prior to any construction, a foundation investigation would be required on fill sites to determine compressibility, volume change, and effects of moisture variation on the soil-bearing capacity. Values for the maximum soil pressure allowable are then set according to the type of soil involved. Compact coarse sand, for example, is capable of supporting 8000 pounds per square foot, while loose organic sand is only rated at 1000 pounds per square foot. (Section 2902) UBC also includes requirements for piling, when used to support building.

159. Model ordinances such as the UBC must be contemplated prior to construction of a DMCA because of the likelihood of the UBC being implemented into the regulations of local jurisdictions.

3.5.5 Floodplain Management Programs

160. One of the most significant impacts on productive land uses of DMCAs at the city and county jurisdictional level is the restrictions pursuant to floodplain management (FPM). FPM concerns regulations promulgated by local jurisdictions in accordance with Title XI of the Housing and Urban

Development Act of 1968 (Pub.L. No. 90-448), which is known as the National Flood Insurance Act of 1968. Title XI of the National Flood Insurance Act was designed to authorize a program of direct Federal assistance to private insurance companies to encourage them to provide property insurance coverage for flood hazards. In order for the insurance companies to provide this aid, the local jurisdiction is required to meet several prerequisites.

161. Qualification for this Federally-subsidized flood insurance is contingent on the implementation by cities and counties of very restrictive land use and management ordinances which severely limit the development of floodplain areas. The land use of DMCAs must be consistent with an area's FPM program. This section will trace the impact of FPM on DMCAs, identify the qualification procedure and scope of FPM coverage, and discuss a typical example of FPM as implemented by Norfolk, Virginia.

162. The scope of FPM, as outlined by the National Flood Insurance Program (24 C.F.R. Sections 1909, et seq.), is designed to include regulation of land use and all activities involving construction, alteration, and substantial improvement of buildings and structures in floodplain areas. A floodplain is land adjoining a river, stream, ocean, lake, or bay which is likely to be flooded. (24 C.F.R. Section 1909.1) The goal of FPM is to minimize flood damage by regulating construction and land uses which block, back up, or spread flood waters. Reducing flood damage decreases the number and amount of claims, thereby enabling the Federal Government to extend low-cost insurance to property owners in local jurisdictions.

163. The severity of the impact of such constraints on the productive land uses of DMCAs is heightened by the fact that DMCA sites often are in or adjacent to floodplains. Floodplain management restricts not only construction of

the DMCA in a floodplain, but also the ensuing development of the land after filling is completed.

164. Each local jurisdiction can qualify for the purchase of flood insurance pending satisfaction of a specific set of requirements and prerequisites. First of all, the applicant must delineate the entire area located within its jurisdiction; this precludes the eligibility of the defined area for subsequent Federal aid. Often a city and its surrounding county are applicants for Federal aid. To prevent duplicate coverage in such cases, Federal Insurance Administration policy directs aid only to those claimants in the applying county who reside in unincorporated areas. Towns, villages, and cities must apply separately.

165. The applicant local jurisdiction provides the Federal Insurance Administrator with appropriate indications of official legislative and executive actions which demonstrate both a need for flood insurance and an explicit desire to participate in the flood insurance program.* The local jurisdictions are also required to furnish the Administrator with summaries of local FPM measures, maps depicting flood areas and a history of flooding that has occurred. (24 C.F.R. Section 1909.22)

166. Local jurisdictions applying for this aid must agree by ordinance "to adopt and enforce adequate land use and control measures, consistent with the Federal criteria." [24 C.F.R. Section 1909.2(b)] Once the Administrator has identified the area's floodway, by assessing the flood hazard areas in the community or by receiving water surface elevation data, Federal criteria for land use management prescribes

*The city of Long Beach, California, resolved to "comply with Subpart B of Section 1910 of the National Flood Insurance Program", and, "if needed, seek state enabling legislation conferring authority to enact land use control measures designed to reduce the exposure of property to flood loss." (City Council Resolution No. C-20811)

minimum land use and control measures to be implemented by the local government.

167. The most severe requirement of the FPM is the prohibition against fills and other encroachments within a designated floodway since these are likely to impair the flow and discharge of waters or raise the 100-year flood level (the highest average level of flooding that is likely to occur once every 100 years). This provision is an absolute requirement unless the local jurisdiction can show it has made stream improvements which can accommodate flood heights. [24 C.F.R. Section 1910.3(d)(6)] Sponsors of dredging and DMCAs would, therefore, be required to incur the cost of both the dredge and fill operation and construction of flood mitigation structures.

168. The next hurdle for implementation of DMCA use is the building permit requirement for all proposed construction or improvements within the particular floodplain. Applications for building permits are then reviewed by local engineers to determine whether the proposed site is reasonably safe from flooding. If the proposed site is within a floodplain, the new construction must be designed to prevent collapse, flotation, and lateral movement. In addition, the materials to be used must be resistant to flood damage. [24 C.F.R. Section 1910.3(a)] Jacksonville, Florida, adopted the exact words of the Federal regulation. Their ordinance requires in part, "... all major repairs... and all new construction... shall be constructed using methods and practices designed to minimize flood damage, including the use of flood damage resistant construction materials and utility equipment." [Ord. Code Section 601.106(b)(1)] In addition, any residential construction within the floodplain must include plans which set the lowest floor at an elevation greater than or equal to the 100-year flood level. Non-residential structures have a more lenient standard in that

they are only required to be floodproofed, and not elevated to, the 100-year flood level. [24 C.F.R. Section 1910.3 (c),(d),(e)]

169. The City of Norfolk, Virginia, located astride the Chesapeake Bay, complied with the requirements for Federal flood insurance in 1973. The Norfolk approach divided its flood damage abatement program into two sections: corrective measures for existing problems and preventive measures for future occurrences. Some of the corrective measures include the construction of a floodwall protecting the central business district, the placement of culverts restricting the flow of tidal waters, the establishment of a storm forecasting bureau and the passage of ordinances protecting sand dunes which provide natural protection from storm damage. Among the preventive measures are the adoption of the Southern Standard Building Code,* the passage of a resolution incorporating various Federal criteria for land management into local planning goals (City of Norfolk Ordinance, July 19, 1973), and the authorization for the City Planning Engineer, the Engineer of Surveys, and the Director of Public Works to determine that proposed development is consistent with the goal of minimizing flood damage.

170. The FPM matrix (Table 1) provides examples of selected local governments' programs. The purpose of this is to illustrate the degree to which the cities and counties have incorporated the Federal criteria into their FPM programs. Some of the suggested Federal constraints are particularly severe so it is important to identify which local governments have included which constraints. Of the 25 local jurisdictions surveyed who had flood management provisions, 76 percent incorporate Federal language verbatim into their programs.

*A uniform building code similar to the UBC (discussed earlier) used by some southern states in place of the UBC.

TABLE 1

City and County Floodplain Matrix*

Cities & Counties	Require Bldg. Permits for All Construction on Flood Plain	Review Permits to Insure Area is Free From Flooding	New Construction in Flood Area: Anchored to Prevent Collapse	New Construction in Flood Area: Uses Flood Resistant Material	New Construction in Flood Area: Construction Methods Minimize Flood Damage	Regulate Subdivisions and New Developments: To Minimize Flood Damage	Regulate Subdivisions and New Developments: New Utilities Minimize or Eliminate Flood Damage	Regulate Subdivisions and New Developments: Provide Adequate Drainage	Regulate Subdivisions and New Developments: Minimize Infiltration in New Water and Sewers	Regulate Subdivisions and New Developments: On-Site Waste Disposal	Consider FPM in Neighboring Areas	Regulate Flood Hazard Areas as A Minimum
Baltimore Md.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Chicago Ill.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Coos County Ore.	Yes *	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No
Detroit Mich.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Galveston Tex.	Yes ***	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Gulfport Miss.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Jacksonville Fla.	Yes ***	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Kinn County Wash.	Yes, UCB	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Lincoln County Ore.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No
Long Beach Cal.	Yes, UCB	Yes	No	No	No	Yes	No	No	No	No	No	Yes
Los Angeles Cal.	Yes, UCB	Yes	No	No	No	No	Yes	Yes	Yes	No	Yes	Yes
Los Angeles County Cal.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes, county policy	Yes

* The matrix illustrates whether Federally mandated provisions have been adopted by local FPM programs

** State building code

*** Southern Standard Building Code

TABLE 1 (Continued)*

Cities & Counties	FPM Takes Precedence over Conflicting Laws	Lowest Floor of New Construction		Construction and Uses in Riverine Area				Construction and Uses in Coastal High Hazard Areas				Uses the Language from Federal Regulations
		Residences: 100 Year Flood Level	Non-residential: 100 Year Flood Level or Floodproofed	Will Not Raise 100 Year Flood Level More Than 1 Foot	Designated Floodway Must Pass 100 Year Flood	Uses in Floodway Will Not Raise Level of 100 Year Flood	Encroachments Offset by Channel Improvements	No Expansion of Non-conforming Uses Below 100 Year Level	Located Landward of Mean High Tide	Elevated Above 100 Year Level, Anchored to Piles	Have Space Below Lower Floor Free From Obstructions	
Baltimore Md.	Yes	Yes	No	No	No	No	No	No	No	No	No	Yes
Chicago Ill.	Yes	Yes	Yes	No	No	No	No	No	No	No	No	Yes
Coos County Ore.	No	No	No	No	No	No	No	No	No	No	No	Yes
Detroit Mich.	No	No	No	No	No	No	No	No	No	No	No	Yes
Galveston Tex.	Yes	Yes	Yes	Implied	No	No	Yes	Yes	No	Yes	Yes	Yes
Gulfport Miss.	Yes	Yes	Yes	Yes	No	No	No	No	No	No	No	Yes
Jacksonville Fla.	Yes	No	No	No	No	No	No	No	No	No	No	Yes
Kinn County Wash.	Yes	No	No	No	No	No	Yes, UBC Chap. 70	No	No	No	No	Yes
Lincoln County Ore.	No	12" > all-time flood	No	No	No	No	No	No	No	No	No	Yes
Long Beach Cal.	No	No	No	No	No	No	Yes	No	No	No	No	No
Los Angeles Cal.	Yes	Yes	No	No	No	No	Yes, UBC Chap. 70	No	No	No	No	No
Los Angeles County Cal.	Yes, deed restriction policies	Yes	Yes	Yes	No	No	No	No	No	No	No	Yes

* The matrix illustrates whether Federally mandated provisions have been adopted by local FPM programs

** State building code

*** Southern Standard Building Code

TABLE 1 (Continued)*

Cities & Counties	Require Bldg. Permits for All Construction on Flood Plain	Review Permits to Insure Area is Free From Flooding	New Construction in Flood Area			Regulate Subdivisions and New Developments					Consider FPM in Neighboring Areas	Regulate Flood Hazard Areas as a Minimum
			Anchored to Prevent Collapse.	Uses Flood Resistant Material	Construction Methods Minimize Flood Damage	To Minimize Flood Damage	New Utilities Minimize or Eliminate Flood Damage	Provide Adequate Drainage	Minimize Infiltration in New Water and Sewers	On-Site Waste Disposal		
New Orleans, La.	Yes	Yes	Yes	No	No	No	No	Yes	No	No	Yes	Yes
Newport, Ore.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
New York, N.Y.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Norfolk, Va.	Yes ***	Yes Ord. 13,156	Yes, by resolution	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
St. Paul, Minn.	Yes **	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Sacramento, Cal.	Yes, UCB	Yes	*Permits only agricultural* use in Flood Plain zone			Yes	No	Yes	No	No	No	Yes
Sacramento County, Cal.	Yes	Yes	No bldg. or structure is allowed in flood zone.			Yes	No	Yes	No	No	No	No
San Diego, Cal.	Yes	Yes	No	No	Yes	No	No	No	No	No	Yes	Yes
San Diego County, Cal.	Yes	Yes	No	No	No	No	No	No	No	No	No	No
San Francisco, Cal.	Flood Boundary Map Rescinded July 22, 1975; area not likely to be inundated in 100 yr flood											
Savannah, Ga.	Yes ***	No, need ord. to reg. individual permits	Yes	No	No	Yes	Yes	Yes	Yes	Yes	No	No
Seattle, Wash.	Yes, UCB	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Wilmington, N.C.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes

* The matrix illustrates whether Federally mandated provisions have been adopted by local FPM programs

** State building code

*** Southern Standard Building Code

TABLE 1 (Concluded)*

Cities & Counties	FPM Takes Precedence over Conflicting Laws	Lowest Floor of New Construction		Construction and Uses in Riverine Area				Construction and Uses in Coastal High Hazard Areas				Uses the Language from Federal Regulations
		Residences: 100 Year Flood Level	Non-residential: 100 Year Flood Level or Floodproofed	Will Not Raise 100 Year Flood Level More Than 1 Foot	Designated Floodway Must Pass 100 Year Flood	Uses in Floodway Will Not Raise Level of 100 Year Flood	Encroachments Offset by Channel Improvements	No Expansion of Non-conforming Uses Below 100 Year Level	Located Landward of Mean High Tide	Elevated Above 100 Year Level, Anchored to Piles	Have Space Below Lower Floor Free From Obstructions	
New Orleans, La.	Yes	Yes	Yes	No	No	No	No	No	No	Yes	No	Yes
Newport, Ore.	Yes	Yes	Yes	No	No	No	Yes, UBC Chap. 70	No	No	No	No	Yes
New York, N.Y.	No	No	No	No	No	No	No	No	No	No	No	Yes
Norfolk, Va.	Yes	No	No	No	No	No	No	No	No	No	No	Yes
St. Paul, Minn.	No	Yes	Yes	No	Yes	Yes	No	No	No	No	No	Yes
Sacramento, Cal.	Yes	No	No	No	No	No	Yes	No	No	No	No	No
Sacramento County, Cal.	Yes	No	No	No	No	No	No	No	No	No	No	No
San Diego, Cal.	Yes	must be 1 ft. above	No	No	No	No	No	No	No	No	No	Yes
San Diego County, Cal.	Yes	No	No	No	No	No	No	No	No	No	No	No
San Francisco, Cal.												
Savannah, Ga.	Yes	No, lowest floor elevation applies to Subd. Regs. only		No	No	No	No	No	No	No	No	Yes
Seattle, Wash.	No	No	No	No	No	No	No	No	No	No	No	Yes
Wilmington, N.C.	Yes	No	No	No	No	No	No	No	No	No	No	Yes

* The matrix illustrates whether Federally mandated provisions have been adopted by local FPM programs

** State building code

*** Southern Standard Building Code

All of the local regulations contain provisions which require a strict review of building permits for all new construction and other new developments in the flood hazard area. Conversely, only 28 percent of local FPM programs regulate riverine areas and only 12 percent contain provisions for coastal high hazard areas. Forty percent of the local government programs include the construction specification which requires the lowest floor elevation to be at or above the 100-year flood level.

171. Some cities and counties surveyed have regulation schemes for floodplain areas which augment the Federal provisions. Seattle, for example, has a shoreline master plan which is discussed in the next section. New Orleans has a Hurricane Protection Program which is very restrictive, reflecting the flood sensitivity in the area due to the relatively high water elevation. That program requires protection against the 200-year flood for construction in the floodplain area.

172. Applications for Federal flood insurance benefits continue to be received by the Federal Insurance Administrator which indicates increasing and widespread use of FPM programs. DMCA planners and engineers could aid acceptance of DMCA in floodplains by becoming familiar with these types of local legislation. It should be noted that lesser compliance with the Federal regulation is permissible when the local conditions render adoption of the 100-year flood standard uneconomic. (24 C.F.R. Section 1910.5)

3.5.6 Seattle Shoreline Master Program

173. Seattle, Washington's Shoreline Master Program is an example of the way that one city has addressed the implementation of DMCAs. This program, which includes criteria for selection of DMCA sites, provides an exemplary framework for local jurisdictions who seek methods of coping

with the question of land use control. The frequency and volume of dredging in Seattle is greater than in many other areas contemplating dredging operations, because the city is located on an alluvial fan, common in delta-type regions.

174. There is a distinction to be made between the responsibilities of the Federal and State governments and those of cities and counties. State regional planning usually will not include provisions for the disposal of dredged materials because of the peculiarities of each local region. The Seattle Program recognizes that local master planning programs should assume this responsibility. Seattle's program includes examination procedures for the evaluation of sediment disposal site locations and problems associated with upland disposal.

175. Dredging disposal policy in the Seattle area has advanced from the indiscriminate dumping practices of periods predating the current era of environmental awareness. Instead of depositing the dredged material as close to the operation as possible, the Program provides for establishment of permissible disposal sites based upon more than proximity considerations. Seattle's present site selection criteria for the deposition of dredged materials includes consideration of whether the site: (a) is located as conveniently as possible to the normal sources of spoil; (b) will conflict with other marine uses; and (c) can be continually inspected. Dredging is not permitted in the natural conservancy environments, as defined by the Program, unless accomplished by the Army Corps of Engineers and only where necessary for maintenance channel improvement or protection of the environment. (SSMP Section 21A.110)

176. Once a site is selected, it is evaluated in terms of general topography, area, availability, methods of containment, fill volume, and cost. Evaluation is the responsibility of the city and local governments who maintain

jurisdiction over the affected land. It should be noted that a discharge permit from the Environmental Protection Agency is required if the operation involves a regulated discharge into the surrounding waters.

177. The city and county governments must determine acreage requirements for DMCA sites. The size of a potential disposal site is important because the larger the available area, the higher the percentage of usable space. For example, only 61.8 percent of a 5-acre site can be used to accommodate dredged material when retaining dikes are taken into account. A 15-acre site, on the other hand, has 76.8 percent usable space, and the percentages increase with the size of the disposal area.* The evaluation of a site, according to the Seattle program, also includes analysis of subsoil and watertable conditions. This is important because of the propensity of upland dredged material disposal to produce leachates. Careful analysis of the subsoil condition will disclose a previous water table which might be contaminated by permeating leachates. The Seattle program suggests measures for leachate control which consist of providing an impermeable barrier between the ground water and the landfill. A drainage system then collects the leachate and transfers it to the treatment area.

178. In conjunction with below-ground examination of the fill site, the dredged material should be analyzed for physical, chemical, and biological characteristics. Seattle suggests that the analysis be carried out jointly by the Department of Game, Department of Ecology, and the Environmental Protection Agency.

179. If there is extensive and repeated dredging in an area, records should be maintained to assist in the

*"The Criteria for Disposal of Dredge Spoil on Upland Sites," working paper compiled by the City of Seattle, Washington.

recording of channel, river, or bay flow and settlement. This will aid in setting a pattern for erosion which will assist significantly in future operations. In addition, dredging in Seattle must also be timed so that it will not interfere with migrating aquatic life. [SSMP Section 21A. 109(d)].

180. The Seattle Shoreline Management Program is unique in the thoroughness of its design and implementation. The detail and breadth of this program provides an excellent example for use as a model by local jurisdictions who are contemplating DMCAs.

3.5.7 Chicago Lakefront Protection Ordinance

181. The Chicago Lakefront Protection Ordinance represents an effort by a city to limit the extent of construction activities, particularly dredging, in environmentally sensitive areas. The ordinance was passed by the City Council of Chicago in 1973, with the primary goal of ensuring that any construction will not cause environmental or ecological damage to the Chicago lakefront area and the waters of Lake Michigan. A further purpose of the ordinance is to ensure that the lakefront parks are devoted exclusively to public use and that considerations regarding expansion encompass both quantitative and qualitative measures (Article II, Section 194B-3) The particular uses of this area may differ from those of other cities contemplating improvement via productive uses of DMCAs, but the framework of the Ordinance provides useful guidelines for master plans of other cities.

182. The Chicago ordinance divides the area into zones according to respective environmental and planning needs. Each zone is then separately assessed to determine the particular goals of the individual area. The areas of Chicago are the offshore zone, the public-use zone (all public spaces and public ways adjacent to the Lake Michigan shoreline), and

the private-use zone. The ordinance then uniformly prohibits any physical change to be undertaken in any area without the developer first having secured approval from the Chicago Plan Commission. (Article V, Section 194B-5) The section does not prohibit dredging per se, but the words of the section proscribe landfill, excavation, and construction of any kind.

183. The Chicago Plan Commission is vested with the authority to oversee all construction operations. Persons or agencies desirous of building, landfilling, dredging, or excavating must submit applications to the Commission for approval or disapproval. In addition, applicants must give notice to all property owners within 250 feet in all directions of the affected area and describe the precise nature of the proposed activity. This additional notice requirement strengthens the ordinance and provides a system of checks and balances which constrains the productive use of a DMCA. The aim of this procedure is to ensure property interests as well as fulfilling environmental considerations. (Article IV, Section 194B-4)

184. A summary report* on the ordinance identified several areas in the public- and private-use zones which are presently being considered for potential DMCA sites. These considerations are based on Chicago's desire to renovate the lakefront area pursuant to the ordinance. Plans in the central section of Chicago call for limited landfill and landscaping to enhance existing park space. Another proposal in the southern sector suggests creation of nearly three miles of new beach.

185. Along with the increased interest in providing a variety of land uses for DMCAs will come the promulgation

*"The Lakefront Plan of Chicago," prepared by Chicago Park District, July 1973.

of more ordinances of this type. Identification of a Chicago-type ordinance will assist in the successful implementation of productive uses of DMCAs.

3.5.8 Institutional Arrangements in Cities and Counties

186. The institutional arrangements at the city and county level fall into two general categories depending on the ownership of the land. Local institutional arrangements are mainly concerned with development of productive land uses as opposed to environmental concerns, which are usually mandated by State legislation.

187. One institutional arrangement in the case of private ownership of land would be the land developers. They are directed by the landowner as to what the owner decides is the highest and best use of the land. An owner might be interested in retaining the title to land so he would rent it, or use it any way he wished without constraint.

188. City planners and city management are the other institutional arrangements at the local level. They normally take applications for land use with no specific plan in mind other than compliance with zoning ordinances and building codes. Corps of Engineers developers and planners could aid local management authority in establishing a DMCA and leave the decision for the highest and best use of the DMCA to the city planners.

3.6 IMPACTING PORT DISTRICT REGULATIONS

3.6.1 Introduction

189. Port districts are often the local sponsors of Corps of Engineer projects involving DMCAs and, as such, are often the agencies most concerned with developing acceptable productive land uses for DMCAs. They have authority limitations and statutory duties which can affect DMCAs. The following discussion summarizes the information presented in the matrix and land uses in port districts found in Appendix F. The matrix was developed from a letter of request (Appendix D) and telephone questionnaire which solicited information on various aspects of port district authority, the salient features of which are summarized below.

3.6.2 Authority Creating Port District

190. Port districts have been created by State law, county law, and city ordinances and are either State agencies, autonomous bodies (comparable in stature to city or county governments), or branches of local governments. This distinction is significant in that if the port is either a State agency, or autonomous body, it will often be unrestricted by local planning or zoning ordinances and may not be subject to building codes.

191. City and county planning, zoning, and building codes will usually apply where the port is a branch of local government. These distinctions, however, are general and variations frequently exist.

192. Most port districts have been created by State enabling acts. Out of the 48 port districts supplying information, 30 indicated they were created by State law, 6 were created primarily by city legislation, and 3 were created by

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2 OF 3
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county governments. (Information was not supplied on 9.) Fourteen of the 30 State-created port districts indicated that they are not subject to local zoning ordinances. Twelve are not subject to local building codes or to local planning. Of the 9 port districts created by city or county governments, only 2 are not subject to local zoning.

3.6.3 Ownership of Port District Land

193. The most significant authority exerted by port districts over land use is their ownership or proprietary authority. The specific uses to be made of a site on port-owned land are usually determined by the port. Uses may be subject to compliance with local planning, zoning, and building codes, or subject to permits from coastal protection and other State agencies.

194. Most districts have been granted proprietary authority over land under their jurisdiction regardless of which governmental entity created the district. Twenty-nine ports owned some or all of the land in the port district; 10 had no ownership rights. (No information was obtained from 9.) The extent of the land ownership vested in the port districts varies from ownership of submerged land only, to lease rights in portions of the land, to fee-type ownership in other portions, to ownership of some port land by private interests with the remaining land owned by the port. Of the 29 port districts which had some ownership rights in port district land, 24 indicated that the port exercises independent authority over land uses in its jurisdiction.

3.6.4 Duties and Authorities of Port Districts

195. A third factor which significantly influences the use of port district land is the statutory duties and authorities of the port as delineated in enabling legislation.

Regardless of the source of port authority (local or State), the uses allowable on land under its jurisdiction are often limited to those stated in enabling statutes.

196. Several of the port districts surveyed indicated that they are limited to uses related to marine facilities, waterborne commerce, port-related uses, water-related uses, or other similar uses. This limitation often stems from directives found in enabling legislation and while the directives are often quite broad, they significantly constrain uses allowable in the port. This restraint would be especially evident where the use is restricted to waterborne commerce as opposed to port-related uses. The latter restriction would provide much more flexibility in the allowable uses.

3.6.5 Port District Self-Imposed Plans and Land Use Restrictions

197. Another set of constraints on port land uses may be self-imposed. Where a port has regulatory authority or land use planning authority, specific use restrictions on port lands may be contained in master plans or in land use regulations.

198. Three of the port districts which responded indicated the existence of a port district land use plan that was prepared by the port. Typical among these was the master plan obtained for the San Diego Unified Port District. The predominant planned uses in this port are for marine industry, air transport industry, and for public and commercial recreation.

3.6.6 State Law Constraints on Port District Land Uses

199. Allowable uses in port districts may also be restricted by several State laws which give other State agencies authority over local jurisdictions or land areas under port jurisdiction.

200. In California, port districts in the coastal area must obtain a Coastal Commission permit for development. They are also subject to environmental impact report requirements mandated by State law. The New York and New Jersey Port Authority is presently in the process of preparing guidelines to comply with the requirements of the New York State Environmental Quality Review Act which requires environmental impact reports. In the State of Washington, the Port of Seattle indicated that the State Department of Natural Resources controls leasing policies and that the Department of Fisheries regulates construction in water areas.

201. The port districts will generally be subject to all State laws which could impact land uses of DMCAs and which are discussed in detail in Sections 3.2 and 3.3 of this report.

3.6.7 Institutional Arrangements

202. Institutional arrangements at the port district level are more restricted than the State and local counterparts because they usually operate from a master plan. Port district land is generally given by the state to the port authority for management.

203. The institutional arrangement in the port district is the port authority, which is the management agency responsible for land uses within the port. Land uses are undertaken usually if they conform to the preconceived master plan. The port district gets revenue from the activities which are permitted and, as such, has a desire to implement only productive land uses which also take environmental concern into account. There would be no burden on the implementation of DMCAs by the Corps of Engineers so long as the Corps

developers cooperated with the port authority on a beneficial land use (preferrably revenue-raising) of the DMCA.

3.7 REGULATIONS ENCOUNTERED BY CORPS DISTRICTS/DIVISIONS

204. Selected Corps District/Division offices were contacted by letter and phone to ascertain their experiences and to isolate constraints encountered in developing productive land uses for DMCAs. Appendix G contains a copy of the letter sent to Corps District/Division offices. The letters requesting information and the follow-up phone contacts were designed primarily to determine:

a. The effect of constraints encountered upon Federally-owned land;

b. the extent to which ultimate DMCA land use is determined prior to commencing a dredging project;

c. the difference between difficulties encountered in making productive uses of urban versus rural land;

d. the legislative arrangements encountered which facilitated inter-governmental coordination;

e. the most restrictive laws encountered which constrain land use; and

f. the types of uses currently imposed upon DMCAs.

205. Very few generalized conclusions could be drawn from the responses due to the variety of situations facing individual Corps Districts. There were, however, some land use constraints reported by many of the districts which suggest the existence of several typical situations.

206. Appendix H presents a matrix of the information obtained from the 14 Corps Districts/Divisions surveyed within the 16-state sample. Information dealing with the above six questions is summarized below.

3.7.1 Effect of Federal Ownership on Uses of DMCA

207. Generally, the Federal Government owns very few acres of land in fee which are used for disposal; only a few districts reported significant Federal site ownership. Most sites are owned by private individuals or other governmental entities. The fact that a DMCA is Federally-owned is significant because it would then be subject to Federal laws regarding government land as well as local and State laws. This would be true unless the land is actually under exclusive Federal jurisdiction and is dedicated to a Federal use.

208. The manner in which State laws apply to uses on Federally-owned land that is not under Federal jurisdiction is exemplified by situations in two Corps Districts. In Florida (Jacksonville District), State water and wetlands laws constrain uses in open waters, wetlands, or marsh areas owned by the Federal Government. In the Wilmington District, North Carolina, laws exerting State ownership rights over waterbottoms have constrained uses of Federally-owned sites.

209. Typical arrangements for acquiring land for a DMCA include purchase of the land, or obtaining an easement or a license from the owner granting a right of use to a local sponsor. The local sponsor will normally be either a city or county government, or a port district. Another typical situation is the direct purchase of a limited duration easement, or a permit for disposal, given to the Corps by private individuals or governmental entities. In either case, the DMCA end use would be constrained by all applicable local or State legislation.

3.7.2 Extent to Which End Use of a DMCA is Known Prior to Filling of the Site

210. Containment areas for the disposal of material from new dredging projects must be distinguished from those

for the disposal of material removed during the periodic maintenance of existing navigation channels. The amount of advanced planning that goes into a "new project" can be attributed to local interest in obtaining the economic stimulus that comes with a Federally-funded harbor extension, or new channel. There is little new money added to the local economy by maintenance dredging. This phenomenon is noted by Wakeford and Macdonald* who state that:

> "New projects, in which local interest typically runs much higher than it does in the annual maintenance of a 50-year-old channel, affords the engineering planners the lead time and access to State and local officials that are needed to produce cooperative schemes for using what is generally high-quality material, i.e., clean, coarse-grained sand and gravel. Beneficial uses, even those that require extraordinary haul distances, are often achieved through a contribution from the local interests for the benefits they receive from the material. This can, and does, include contributions for dikes that will hold material to make new marine terminals and for transporting sand the extra distance it must go to reach a starved beach which the community wishes to replenish."

211. While the use to be made of land created by a new dredge project is often established in the course of project approval, the Corps typically does not know what the end use will be for a DMCA at the conclusion of many years of maintenance dredging. This situation is partially attributable to the fact that the land is owned by local sponsors, and the Corps is not involved in planning for uses that the sponsor will make of the land. Due to this lack of prior land use planning, subsequent proposals meet with many constraints which forestall a productive use.

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*Dredged Material Research Program Report D-74-7, "Legal, Policy, and Institutional Constraints Associated with Dredged Material Marketing and Land Enhancement," p. 52.

212. In two districts (Portland and Seattle), the end use is generally predetermined. The land use planning that is conducted in these districts is a result of Oregon and Washington State laws requiring payment of a royalty on material (which depends on the end use made of the material) and the Washington Shoreline Management Act which requires local government planning for DMCAs and their end uses. The Washington Shoreline Management Acts end use planning was discussed previously in Section 3.5.6.

3.7.3 Urban Versus Rural Uses

213. Very minimal differences in the ease with which end uses are developed, in urban as opposed to rural areas, were encountered by the districts. However, there is a tendency for most sites to be located in urban areas as it is considered easier to find end users in these areas due to less environmental sensitivity of developed areas. Also, productive uses in urban areas are easier to find due to the value of the material, in that many people want it. However, rural areas have been generally simpler to dispose on due to the lack of government procedures in such areas. For the most part though, constraints are often applicable to both locales.

3.7.4 Legislative Schemes to Facilitate Inter-Governmental Coordination

214. The Corps districts must work through a number of different local and State agencies and typically face a lack of intergovernmental coordination. With a few notable exceptions, no legislative scheme exists to facilitate a coordinated response to Corps-sponsored projects. An exemplary exception to the typical situation exists in the State of Oregon. Here, the state has developed a clearing-house for all State agency responses to Corps dredging and

disposal plans. All State agencies are required to submit their responses to this clearing house. All agency responses are then merged into one which is written by the clearing-house. The state is now working on a similar arrangement to coordinate all local inputs for inclusion in the single State response.

215. Florida is reported to be working with the Corps to develop procedures for expediting dredge and fill permits, but none of the other Corps Districts reported any experience within the inter-agency coordination schemes.

3.7.5 Most Restrictive Laws Encountered

216. Many Corps Districts indicated that wetlands acts or coastal management acts were the most restrictive State acts encountered. Other laws mentioned as being restrictive were wildlife protection laws, wild and scenic river laws, floodplain laws, and public land laws dealing with submerged lands which require the payment of royalties for material taken from State waterbottoms.

217. The type of laws cited are those that were enacted to conserve land and to guard against any form of development. Thus, it is natural that these laws would be the most restrictive upon DMCAs. Public land laws mentioned above provide incentives for the use of dredged material for public purposes by exacting a royalty for other uses.

3.7.6 Types of Uses Currently Being Made of DMCAs

218. A wide variety of uses are currently found on DMCAs, the more predominant being public uses, such as recreation parks and wildlife refuges. However, in several Corps districts, a number of commercial uses have been found for DMCAs. In the Portland District, DMCA uses

include industrial plants, port and airport facilities, some residential areas, as well as recreational purposes. The St. Paul District reports that DMCAs have been used for industrial complexes and a hotel complex. However, with the exception of these two districts, DMCA uses are generally of a low intensity type.

219. The fact that recreational uses or other light public uses predominate appears to be largely a function of the legislative constraints enacted in the DMCA area. Wetlands acts, coastal zone management acts, wild and scenic rivers acts and floodplain acts each contain a legislative prejudice in favor of this type of use.

3.7.7 Collation of State Laws by Corps District/ Division

220. Appendix I presents a collation of the pertinent state laws from the 16-state sample. The collation will provide a reference for laws applicable within a particular Corps District jurisdiction.

3.8 SUMMARY OF CONSTRAINTS BY OWNERSHIP

221. The following discussion relates to the consideration of how Federal, State, and local jurisdictional requirements can affect implementation of productive land uses on DMCAs. The study team feels that an understanding of jurisdictional authority can assist land use planners in determining what division of government possess authority to regulate uses to be made on DMCAs. The discussion focuses on delineating the traditionally understood division of jurisdiction among the Federal, State, and local governments.

3.8.1 Introduction

222. There are a number of types of ownership control over public lands. Depending on the type and extent of ownership involved, Federal, State, and local land use controls may be imposed. A large amount of land, especially in the western states, is owned by the Federal Government. This land includes military installations, Indian reservations, and land for other public uses. As to some public lands, the state has forfeited its right to exercise jurisdiction, while to other land, State jurisdiction is imposed and is subject to preemptory Federal law. Land owned by a state is generally immune from local constraints; however, recent trends indicate that this immunity is weakening. Locally-owned lands are generally considered to be subject to State land use controls.

3.8.2 State Jurisdiction Over Federally-Owned Lands

223. In order to analyze the extent of State jurisdiction over Federally-owned land, it is first necessary to determine the source and scope of Federal authority over government property. There are two clauses of the United States Constitution which delinate the authority of the Federal government over United States property. The first,

the Article I property clause, provides that Congress shall have the power to exercise exclusive jurisdiction over property secured for "the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." The second source of Federal power over property, Article IV, provides that Congress shall have the power to "make all needful rules and regulations respecting the territory or other property belonging to the United States . . ."

224. Under Article I, Congress shall have the power to exercise exclusive legislative jurisdiction in all cases whatsoever over all lands purchased with the consent of the State legislature in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings. When the property is so purchased by the Federal Government from the state, the Federal jurisdiction is exclusive. However, this can be qualified or limited by agreement between the Federal and State Governments; in such a case, jurisdiction is then reserved to the state.

225. For the United States to possess exclusive legislative power over the tract, this constitutional provision requires that the property must have been acquired through purchase, with the consent of the state and for a constitutionally enumerated purpose. Where the Federal Government acquires State land by means other than purchase with the State's consent (e.g., by purchase without State consent through the use of Federal eminent domain), such land remains subject to the jurisdiction of the state; this State jurisdiction may not infringe upon property rights previously purchased by the Federal Government. However, a recent U.S. Supreme Court case* held that a state can only enjoy concurrent

* *Kleppe v. New Mexico*, 405 U.S. 727 (1972).

jurisdiction over Federal public land, never exclusive jurisdiction. Jurisdiction is concurrent to the extent that State statutes control in the absence of Federal legislation; additionally, the Supremacy Clause* of the U.S. Constitution ensures preemption of conflicting State laws.

226. Purchase with the consent of the state is not the only way for the United States to acquire exclusive jurisdiction over property; a state may cede to the United States exclusive jurisdiction over the property. Such a cession has the same effect as acquisition of exclusive jurisdiction under the constitutional provision by purchase with consent. This cession of jurisdiction renders State statutes subsequently passed inapplicable to the territory ceded. There may be a cession of jurisdiction not based upon Article I criteria, but for purposes other than those specified therein; the specific purpose may be broad enough to be applicable to land not used for governmental purposes. However, a general cession of jurisdiction to the United States for purposes other than those described in Article I does not apply. As a result, property purchased and subsequently leased by the United States for purposes other than those described in Article I does not apply. As a result, property purchased and subsequently leased by the United States to non-governmental activities is subject to the State legislative jurisdiction.

227. The United States, under Article IV, may also acquire State land and dedicate it to a public use without obtaining exclusive jurisdiction. The mere acquisition or

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*Article VI, Section 2 states: The laws of the United States shall be made ... and all treaties made, or which shall be made, ... shall be the supreme law of the land ....

reservation of title to land is not in and of itself sufficient to confer exclusive jurisdiction on the United States and, thereby exclude the state from exercising any jurisdiction. For the Federal Government to exercise exclusive jurisdiction, the state must consent to or cede jurisdiction. However, exclusive Federal jurisdiction does not necessarily divest a state of all power over the previously-owned land. So long as the asserted jurisdiction is consistent with the Federal jurisdiction, the state may continue to exercise its power. However, the Federal Government, through compact with a state, may exercise exclusive jurisdiction over any lands within the state. Such exclusive jurisdiction may even extend over privately-owned land, where this is necessary to gain the requisite benefits from Federally-owned land.

228. The United States Government and a state may agree on the question of jurisdiction over State land. Thus, where the United States acquires land by purchase with State consent, even though empowered by the Constitution to exercise exclusive jurisdiction therein, the state may nevertheless reserve jurisdiction to itself; such reserved jurisdiction may not be inconsistent with the Federal use. The reserved State jurisdiction is concurrent rather than exclusive, since the only exclusive jurisdiction that may exist in the enclave is that belonging to the Federal Government. A cession of jurisdiction by a state may be less than exclusive. It may be accompanied by conditions or reservations.

229. Where the United States obtains exclusive jurisdiction, the State and local laws remain in force until abrogated by Congress. Only laws in effect at the time of cession or transfer of jurisdiction remain in effect under the rule; laws subsequently enacted are inapplicable in the enclave unless they come within a reservation of jurisdiction or are adopted by Congress.

3.8.3 Application of State Statutes to Federally-Owned Land

230. Whether State and local statutes may impose constraints on Federal land is often determined by the governmental use of the land and whether the United States has exclusive jurisdiction over the land. Even when the Federal Government has exclusive jurisdiction, Federal statutes may mandate compliance with applicable State and local laws.

State wetlands protection laws are applicable to Federal lands not under exclusive jurisdiction of the United States.

231. The Federal Coastal Zone Management Act requires Federal compliance with approved State coastal management programs. Thus, any Federal agency conducting or supporting activities affecting the coastal zone shall act, to the maximum extent practicable, consistently with the State management program.

232. Where the Federal Government retains exclusive jurisdiction over its land, State fish and game habitat protection laws generally do not apply. However, on other Federal lands, the State habitat protection laws generally will be applied, unless Federal legislation conflicts with the State law.*

233. State land use planning laws will generally not be applicable to public lands under exclusive Federal jurisdiction. Thus, military installations would probably not be subject to State planning and land use constraints. However, other public lands under Federal and State jurisdiction would

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*In Kleppe v. New Mexico, a state law conflicted with a Federal wildlife statute. The Court held, that as to Article IV land, the Federal legislation preempted conflicting State laws.

probably be subject to these constraints, unless the State law conflicts with Federal legislation.

234. Basically, State sedimentation and erosion control laws, as well as its floodplain programs, are applicable to Federal public lands to the same extent as the State planning laws. They would probably not be applicable to Federal lands within the exclusive jurisdiction of the United States, but could be enforced on other Federal lands in the absence of conflicting Federal statute.

235. Agricultural zoning laws which create agricultural districts, restricting non-agricultural uses, would be applicable to Federal lands subject to State jurisdiction in the absence of a contrary Federal statute. Lands under exclusive Federal jurisdiction would not be restricted by these State agricultural laws.

3.8.4 State Jurisdiction over Indian Lands

236. Traditionally, Indian lands have been under the absolute jurisdiction and control of the United States. However, Public Law 280 has granted limited jurisdiction to a number of states. Also, State authority to regulate the use of Indian reservation land has generally been limited to activities which present potential health and safety hazards off the reservation. Even so, State land use restrictions which are contrary to any Federal treaty, agreement, or statute dealing with Indian lands are inapplicable. Few State and local laws have been found to be applicable to Indian reservations, when considered on a case-by-case basis.

3.8.5 Local Constraints Upon Federally-Owned Lands

237. Local governments, as an extension of the state, are typically granted the same jurisdiction over public lands

as is the state. Where the Federal Government exercises exclusive jurisdiction over public lands, subsequent local laws are held inapplicable. However, current local ordinances are generally applicable to this land until abrogated by Congress. Federal lands which are within State jurisdiction are, for the most part, subject to local ordinances.

3.8.6 Local Constraints Imposed on State-Owned Lands

238. It has been historically held that a local government, such as a municipality, does not have the power to restrict the functions of a superior governmental unit such as the state. Where a municipality's power to zone arises from a delegation of the State's police power, the state has the power to limit the municipality's use of zoning power on State lands. However, a number of Courts have expressed concern that this will unjustly upset a local government's overall land use plan. Rather than simply declaring the state immune to local regulations, the courts have applied a balancing-of-interests test. The court will look to the interests on both sides to determine which governmental interest should take precedence. In the future, this may force the state to give more consideration to local development plans.

3.8.7 State Control Over Locally-Owned Lands

239. Local governments derive their authority from State government. As such, lands owned by local authorities are, in essence, owned by the state, but are placed under local jurisdiction. This allows the state to require that State land use restrictions be applied to locally-owned lands.

3.9 SUMMARY OF CONSTRAINTS BY TYPE OF USE

3.9.1 Types of Uses Constrained by Federal Laws

240. Federal laws will generally not directly impact land uses of DMCAs. They contain no specific restrictions on a particular type of use. The major Federal acts which do impact land uses of DMCAs are the Coastal Zone Management Act of 1972, the National Environmental Policy Act, the Federal Water Pollution Control Act Amendments of 1972, the Endangered Species Act of 1973, and the Fish and Wildlife Coordination Act. Some of the above Acts have influenced State legislation, while others have placed a direct requirement on dredging projects; but none specifically address particular types of uses. Others, like the Wild and Scenic Rivers Act, tend to restrict all uses within protected areas.

3.9.2 Types of Uses Constrained by State Laws

241. The State laws which constrain uses that can be made of DMCAs are generally equally restrictive with other types of land in the same location. There are exceptions to this generality (e.g., a DMCA and State waterbottom may be restricted to public use only), but most of the laws described here are designed to stop any intensive land uses in sensitive areas. Table 2 presents the types of uses encouraged or discouraged by constraints present in California law and the physical area in which the constraints apply. Table 2 was extracted from information presented on the California matrix. Similar information for the states included in this study is listed on the matrix of each State (Appendix C). California's laws and related restrictions on land uses are typical of most of the states with similar laws and the following discussion based on California

TABLE 2

Types of Uses Encouraged or Discouraged by California Law

Category of Law	Land Uses Encouraged or Discouraged by Act	Physical Area in Which Restrictions Apply
Wetlands Protection Acts	Natural condition. No uses altering natural state encouraged.	Wetlands.
	Balanced land uses according to land use plan. Maximize public access, recreational uses and water dependent uses.	Coastal zone.
	Balanced usage according to land use plan. Filling of Bay discouraged as one use which derogates from public access.	San Francisco Bay Area.
Wild & Scenic River System Acts	Uses allowed vary from natural condition uses to recreational park development depending on area designation.	Wild & scenic rivers.
Wilderness Acts & Conservation Acts	Natural condition. Recreational uses allowed such as skiing, fishing and hunting.	State-owned land designated as wilderness.
Fish & Game Habitat Protection Acts	Natural conditions. Recreational uses allowed such as skiing, fishing and hunting.	State-owned land designated as wildlife conservation area.
	Uses that alter natural flow of water or alter bank to detriment of fish and wildlife are discouraged.	Any river, stream or lake in which there is fish or wildlife.

TABLE 2 (Concluded)

Category of Law	Land Uses Encouraged or Discouraged by Act	Physical Area in Which Restrictions Apply
Environmental Impact Assessment Laws	Any use which may have significant environmental impact is subject to mitigation by this act.	All lands and waters that are subject to a State or local government activity.
State Land Use & Land Use Planning Laws	Uses planned for are encouraged.	All lands in state.
Public Land Laws	Uses considered to be in the best interest of the state are encouraged.	DMCAs created from State-owned bottom materials
	Recreation and open space use encouraged.	State-owned land designated as surplus unimproved land.
Floodplain Protection Laws	Uses which restrict carrying capacity of floodway or which endanger life and property are discouraged.	Designated floodways.
Agricultural Zoning Laws	Agricultural, recreational, and open space uses are encouraged.	Lands subject to rights purchased by local governments.

law would generally apply to these other states. As indicated by Table 2, State land use laws are basically restrictive and are designed to preserve lands in a natural or aesthetically pleasing state, to provide lands for public use to protect against environmental degradation, or to minimize damage from floods. The following four categories of California law tend to restrict land use so that the land is kept in its natural condition:

a. Wetlands protection acts;
b. wild & scenic river system acts;
c. wildlands protection acts; and
d. fish & game habitation protection acts.

Six of the nine categories of laws presented in Table 2 contain provisions which encourage recreational, open space, or agricultural land use, or maintain the land in a natural condition. The three categories which are not included above are environmental impact assessment laws, State land use and land use planning laws, and floodplain protection laws. These laws are obviously not designed to prevent specific restrictions. Environmental impact assessment laws will restrict any type of use which will cause significant environmental impacts; State land use and land use planning laws provide the mechanism to incorporate all uses into an overall law; and floodplain protection laws restrict all uses which entail danger to life or property from flooding or which increase flood levels. More specific restrictions on land use posed by floodplain laws at the local level are discussed in the city and county constraints section of this report (Section 3.5.5). Some State land use and land use planning laws contain more restrictive provisions than are found in California law. Maryland and Florida, for example, have land use laws which authorize restrictions on uses in "areas of critical State concern". These are

typically wilderness or other undeveloped areas which are wildlife habitats or provide recreational opportunities for residents of the state. Once an area is designated as critical, the use allowed will generally be very restrictive.

242. Coastal zone management acts are among the more frequently encountered State laws in many Corps Districts. These Acts generally require a land use plan in the coastal areas which provides for most types of uses, but certain uses are encouraged by the language of the act. California's Coastal Act is typical of other State coastal acts in that it encourages uses which provide public access to beaches and recreation areas. It also gives priority to uses that are water-dependent.

243. In summary, the State laws tend to restrict any intensive land use. The Corps dredging activity and DMCA placement will often be in geographical areas controlled by these state laws and they will often restrict end uses of DMCAs to open space, recreation, or other low intensity uses. However, water-dependent commercial uses of a DMCA will usually be encouraged. Uses which tend to maintain or restore the natural contours of the water's edge, preserve other ecological amenities, and which will benefit the area, provide an excellent opportunity for productive DMCA management.

3.9.3 Types of Uses Constrained by City and County Ordinances

244. City and county ordinances impacting land uses of DMCAs are basically the zoning laws and building codes. Incorporated into the zoning ordinances are floodplain restrictions and shoreline or water area restrictions. Zoning ordinances are often enacted pursuant to a land use plan for the area. Specific types of land uses restricted

or allowed are contained in the zoning for each city and county jurisdiction. Development or construction of a site is regulated by the building codes. The city or county constraints on land uses of DMCAs are then directed at particular uses; they encompass all such uses and each city or county ordinance or plan would have to be consulted to determine the types of uses constrained for a given area.

3.9.4 Types of Uses Constrained by Port Districts

245. Port districts will often have limited authority over land use in their area of jurisdiction. Their enabling acts sometimes limit their ability to use land for purposes that are not port- or water-related. This restriction, however, is usually very weak in that many uses can be port- or water-related. Some districts have total discretion on the type of use to be made of port land and decide appropriate use on a case-by-case basis. Others have developed port land use plans which include a wide range of uses. Many are subject to local government land use planning and related zoning. The information received from port districts indicated that a typical zoning statute zoned the port area for commercial and/or industrial use. Port plans also included an emphasis on commercial and industrial uses.

PART IV: FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

4.1 FINDINGS

246. Land use controls affecting development of dredged material containment areas can be classified into two levels of stringency: (1) general laws and procedures which all government agencies will possess; and (2) special laws and programs which only a few State and local jurisdictions will have adopted, which are superimposed over the first level and which will apply to all uses in specified areas. Federal laws for the most part have no direct control over land use, except for their control over Federally owned lands.

4.1.1 Summary of Land Use Controls - General Laws and Procedures

247. The research reported upon in this document indicates that most development of dredged material containment areas would have to meet local building codes, zoning ordinances, and be in harmony with an adopted general plan or port master plan. Variances, under special use permits, can be approved if the use is reasonable.

248. If development occurs within a port district, approval by the port commissioners would be necessary. If development occurs outside the port district, then city, county or State approval would be necessary.

249. Depending upon the locale, the procedures and agency responsibilities, with which the developer must deal, vary greatly. This relates directly to the types of land use controls which are encouraged. To illustrate this point, compare the State of Washington with the State of Louisiana. In the State of Washington, six to eight State agencies, two to three local governments and the local port district may play a role in land use control. In addition, there are several State laws which govern and apply to special circumstances. In the State of Louisiana, as of this writing,

compliance with building codes and zoning ordinances and approval by the local authority (either the port commissioner, city or parish) is required. Other than these local agencies, there is very little involvement by State agencies. Individual states should be consulted to ascertain the levels and degrees of agency responsibilities.

4.1.2 Summary of Land Use Controls - Special Laws and Programs

250. Within this category are laws which address critical areas of environmental concern and those which view the ecological system as a whole. Acts that afford scenic river protection deal with waters identified as having unique qualities and direct that these waters be protected through regulations set in place. Floodplain management enactments have included broad State and local powers to ban any new development in a flood way, partly to reduce damage to property and partly to provide areas in which the water table may be recharged.

251. Special programs have been identified as encompassing coastal zone management programs, shoreline preservation acts and local coastal management programs. These programs view development as it impacts the total ecosystem. Generally, the programs include all new development which would occur within the program's jurisdiction. They usually do not expressly address dredged material containment areas created within the purview of a coastal or shoreline management program or floodway management plan would be regulated by these acts.

252. Governmental agencies that have been exempt from coastal programs are few. However, the State of California has expressly exempted the San Francisco Bay Area from the California Coastal Act; the State established the San Francisco Bay Conservation and Development Commission (BCDC). The BCDC serves as the lead regulatory agency where all

development occurs within the Bay area is approved or disapproved. The BCDC has adopted a Bay area master plan that addressed both environmental and socio-economic concerns of the area; development must be in accord with the adopted master plan.

253. Prior to undertaking any dredging activity, the subject of future land use must be addressed in relation to the governing agency's adopted master plan or coastal management program. Where the emphasis is placed on ultimate use of land, approval of the dredge and fill operation is usually withheld until agreement is reached on the use that will be made of the land.

254. Where various laws, procedures and governmental agencies impact a dredged material containment area and its proposed land uses, several recommendations are offered.

255. In states which involve several independent states agencies to participate in the permit process for new land uses, it would be beneficial to the sponsor for one lead agency, and a master application to be incorporated into the process. This procedure is already in place in the State of Washington. In Washington when a development is proposed within the state and the permit must be reviewed by several State agencies, a lead agency administers a master application file of the client. The Washington law is discussed further in Section 4.4.3. A process such as this would be useful in states where there are a number of agencies and laws involved.

256. The Corps of Engineers can also benefit from effective liaison with Federal and State agencies, local government and port districts who have, or who are in the process of preparing, a coastal zone management program or master area plan. This would assist in ensuring that dredged material containment areas are specifically addressed and that appropriate areas are designated on the plan as future

dredged material containment sites. As the State of Louisiana is beginning its program, it would be beneficial to the Corps to have its concerns specifically addressed in the early stages of development of new environmental management programs.

257. In selecting sites for a dredged material containment area, sites should be disregarded that are within the jurisdiction of special environmental control districts or in areas defined as "critical ecological areas of concern", or "flood prone". These sites come under the most severe regulations designed to guard against any disruption of the values that the new law intends to protect. It will become increasingly difficult to gain approval of a development within these areas.

4.1.3 Summary of Principal Conditions Affecting the Complexity of Achieving Beneficial DMCA Land Use

258. There are a number of conditions that affect the complexity and cost of specifying DMCA land use.

259. New projects are normally initiated in response to a local desire for the project, and specifying a use of the DMCA under these conditions may be much less of a problem than obtaining an agreement for use of land created by future maintenance dredging. Since local land use decisionmaking procedures are largely discretionary, support for a dredging project can be most easily coupled with a specification for the use of the DMCA at the time of project initiation. When a proposed use is first suggested, local officials have almost unlimited discretion (within State-imposed constraints) with respect to the approval or disapproval of the use that is proposed. When no use is designated for the new land at the time the DMCA was first designated, the range of possible uses may be limited by subsequent changes in the attitude of the body politic.

260. As has been shown in the preceding chapters, the ability to effectively use DMCA land is impeded by the extent to which multiple agency approval is required. The multiple agency approvals that are required of proposed uses of older DMCAs (in communities where there is no use designated) can make the processing of an application such a formidable risk that developers may be unwilling to take the trouble to apply.

261. Future effective use of land from DMCAs is, to a large extent, dependent on the degree to which plans, under a variety of State, Federal, and local agency planning groups, have anticipated the creation of DMCAs. The earlier a DMCA is incorporated into State and local plans, the less likely it is to encounter future environmental laws.

262. Fears of challenges to the adequacy of environmental impact statements dealing with dredge-filled lands have the potential for delaying land use decisions. The result is that it is perceived to be easier to defer or delay the decision than attempt to prepare the environmental assessment necessary to support the land use decision. However, an environmental assessment will ultimately be needed, thus DMCA purposes would be better served by initially providing an in-depth environmental impact statement.

4.2 MAJOR TRENDS IN LEGISLATION AFFECTING DMCA IMPLEMENTATION

4.2.1 Federal Land Use Laws

263. Federal involvement in land use is not as widespread as in other regulatory bodies. The primary trends in Federal regulations affecting land use are:

a. Increasing Federal control over land use regulations;

b. restrictions on uses affecting navigable water;

c. protection and restriction on land use in flood hazard areas.

264. Land use has historically been under the control of the State and local governments. While local control remains intact for the most part, the study group finds a general trend in Federal regulations and legislation which shows a recent interest in land use control. The Federal involvement lies primarily in a purely advisory authority. This has transpired from the growing concern for the preservation of the Nation's finite resources, and the relative density of urban lands. Federal government recommendations or policies for land use are filtered down to the State and local jurisdictions in the form of laws. The Federal government then requires permits which require compliance of Federal policy. Requirements like this give the Federal government a tangential involvement in land use control; and such legislation continues to be enacted.

265. Another trend in Federal land use control is the restriction on construction on and obstruction of the United States navigable waters. The reason for this is the need to keep navigable waters open to allow the vessels of commerce free and clear access fo cities and ports connected by the nation's waterways. Despite the fact that the first river and harbor protection act was passed in 1899 (33 U.S.C.

Sections 401-413), there have been several acts passed recently which amend and modify the original act. This shows a continuing concern of the Federal legislature with the need to protect these regions. It is likely that there will be more legislation in this area because of the sedimentary and erosion characteristics of waterways which require constant upkeep. This type of Federal land use control is not likely to severely constrain DMCA because the agency responsible for overseeing construction on navigable waters is the Corps of Engineers. Instead, the Corps of Engineers' planners will be able to suggest DMCA implementation in waterways construction and condition permits for construction on the promise to use DMCAs if necessary.

266. As discussed on several occasions in the report, the National Flood Insurance Act of 1968 (Pub. L. No. 90-448) has made low-cost flood insurance available to State and local jurisdictions if they adopt floodplain management programs designed to protect flood prone areas from unusual damage. The programs adopted by State and local jurisdictions place restrictions on development and construction in these areas with which planners of DMCAs must comply. This is another example of the tangential effect of Federal legislation on DMCAs which would affect implementation, site selection and use.

4.2.2 Federal Environmental Protection Laws

267. Federal environmental protection laws have the same secondary effect on productive land uses as Federal land use laws. The general trend in this area is that the Federal regulation is advisory legislation which sets guidelines for environmental protection and resource conservation. The Federal laws preempt State and local laws where there is a conflict. The passage of the National Environmental Policy Act (Pub. L. No. 91-190) and the Environmental Quality Improvement Act (Pub. L. No. 91-224) has enabled the Federal government to establish a national policy of environmental protection,

require Federal, State and local agencies include this policy in their activities which affect environmentally sensitive areas, and to monitor such activities to insure compliance. The major trends in Federal legislation and regulations are:

a. Systems of permits and reviews to insure compatability with Federal laws;

b. coastal protection;

c. water quality conservation;

d. protection of wild and scenic areas and habitats.

268. As the quantity of Federal environmental regulation increases, it becomes harder and harder to insure compliance with Federal standards. With increasing regularity, there is a trend at the Federal level to require a permit for activities which endanger or threaten areas of environmental concern. Application for the permit is made to the administrator of the law which regulates the particular environmental area. The application is generally required to contain: a) the proposed statement of work, b) the anticipated environmental impact, and c) the proposed methods of dealing with the environmental problem. The activity is monitored by the appropriate administrator who is often aided by another agency, such as the Environmental Protection Agency, for example, if the activity concerns pollutants of any kind.

269. Coastal protection regulations have been enacted to encourage states to make productive use of their coastal areas. The purpose of identifying coastal regulation is not merely to mention the fact of their enactment. The trend in this area is rather to illuminate the fact that since its passage in 1972, Public Law Number 92-583 has caused the establishment of almost 15 State coastal zone management acts (Illinois will enact such a law).

270. Another trend in Federal laws is aimed at the protection of water quality. Continued water pollution and

identification of the finite nature of water and water resources has caused alarm among the environmentalists. The legislation in this area is aimed at preventing unrestricted discharge into the Nation's inland and territorial waters. Any activity which affects water or water quality is subject to strict scrutiny by the administrators of Federal water quality control acts. There is an increasing tendency to stay away from open water disposal of any kind. This is reflected in the severity of guidelines regulating such disposal and the punishments for failure to comply.

271. An established trend in Federal legislation and regulations is aimed toward the protection of wild and scenic areas and habitats. Restrictions on the uses of these environmentally sensitive areas reflect the desire to preserve the remaining parts of these areas in their natural state. In addition to preservation of the land, the intent of this type of legislation is to protect the species thereon which are in danger of extinction. This trend of Federal legislation, although prevalent, is not felt to be of primary concern for this study. Except for preserving a river or waterway in a navigable condition, there is not a lot of dredging activities which would need to be conducted in these areas.

272. Two laws within the scope of this trend contain provisions which give the Federal government and its agencies the exclusive right to control land. The Fish and Wildlife Coordination Act (Pub. L. No. 85-624) provides for Federal acquisition of land when necessary to protect and conserve the interests of an endangered species. The Wild and Scenic Rivers Act (Pub. L. No. 94-486) establishes a zone of protection around designated rivers. It is possible that Federal acquisition of coastal lands or some other endangered environment might take place in the future if the administrator of the respective areas felt there was a lack of proper management by State or local authorities.

4.2.3 State Land Use Laws

273. The major trends in State land use laws may be classified into three general areas.

a. State control over land use regulation;

b. restrictions in flood prone areas;

c. protection of existing agricultural and forest lands.

As is shown, State regulation of land use has arisen largely because of the failure of local governments to consider the State-wide significance of local controls. While a few states, notably California, have only granted advisory authority to a State agency as to land use, the trend is toward more direct State control. The states are generally setting aside areas that are considered to be of "critical State concern" and place certain restrictions on the use of such land. They also may subject developments that will have a "regional impact" to State-imposed restrictions. A common method of implementing the laws is to adopt a State development plan which contains guidelines for local government implementation. Although local governments usually retain their land use regulatory powers, regulations must conform with the State plan and special consideration given to projects having regional impacts. Laws of this type provide an excellent method of control, whereby the state can control matters having a State-wide affect and yet local control is preserved to handle the administrative function. Through Federal cooperation with the State and local agencies in planning end uses for DMCAs, the most beneficial use can be achieved from the viewpoint of local needs, and yet preserve the overall state plan.

274. In response to recent Federal legislation, states are enacting laws which control land uses in flood prone areas. To receive Federal insurance against flood damage,

State laws are requiring local planning and zoning designed to restrict land uses and regulate construction in areas subject to floods. DMCAs in floodplain areas would be subject to the local restrictions. Because of the Corps experience in dealing with flood prone areas, local governments should find Corps suggestions as to land uses a beneficial aid in floodplain planning. This could include not only land use planning for existing land, but could include provisions for productive uses of DMCAs as well.

275. The third major trend in State land use control is in the area of preservation of existing agricultural and forest lands. With the rapid expansion of suburban areas, farm and forest acreage has greatly decreased in many states. This has lead to several types of legislation designed to conserve existing farm acreage. One method is to provide property tax incentives wherein the landowner pays a lower property tax based on the crop yield or stumpage value of the property rather than on surrounding urbanized land values. Oftentimes land that benefits from this tax advantage is subject to sale restrictions in that higher tax must be paid for prior years, if the property is sold for other than farm purposes within a certain time. Although this type of legislation will tend to slow down the conversion from farm land to urban use, such conversion is not prohibited. Once the surrounding land values reach a certain level, it becomes more feasible to pay the back taxes than to continue the agricultural use. Thus, this type of law will have little effect upon DMCA use.

276. A second method to preserve farm and forest lands is to create a type of agricultural or forestry preserve. This may be accomplished through the zoning power or by the state acquiring an interest of some type whereby the land is to be used only for a particular use. The end

use of a DMCA on land in this category will generally be subject to these restrictions. However, agricultural land is generally released from its farm restriction as growth spreads to the immediate area. By depositing dredged material on land which is near to expanding urban areas, a city will often welcome productive land uses of DMCAs which add to the city's continued growth.

4.2.4 State Environmental Protection Laws

277. A number of trends are developing in State environmental protection laws. Generally, it can be stated that the trend is toward limited but direct State regulation of geographical areas or development activities. When a State enacts a law regulating specific geographical areas this often involves the State taking back some of the power it has delegated to local governments. The State law has the effect of preempting local planning, and when the State enacts its own plan, local governments often have the task of implementing it.

278. The main concern of environmentalists has been the protection of wetlands and wilderness areas. Thus, the primary thrust of many environmental laws has been the restriction of uses in protected areas. These laws urge consideration of productive versus non-productive land uses in obtaining approval of proposed projects. Many State laws also encourage the reuse of resources whenever possible. This includes planning guidelines encouraging development in urban areas, rather than paving over farm, wilderness, and forestry lands.

279. Due to increasing haphazard development around coastal and inland wetlands areas, many States have enacted laws regulating uses in these areas. This type of law generally requires a land use plan that establishes allowable uses within the wetlands area. These have typically involved the creation

of coastal commissions or similar entities for planning and project approval. The plan may be drawn by the State agency or by local agencies, and must be approved by the State agency or legislature. The State law often establishes certain land use priorities. Once approved, the land uses allowed in the wetlands area are restricted to those compatible with the plan, and development in the area generally requires a permit.

280. With the dwindling of wilderness areas, states have found it necessary to enact laws seeking to protect the remaining areas. These laws are of two general types. One type is similar to the Federal Wild and Scenic River Act, which seeks to protect designated rivers in substantially their present condition. When a state designates a river or river segment as protected, it generally acquires an interest or easement in the area. Land uses are very restricted in such areas. A second type of law restricts land use of State-owned land in designated wild lands protection areas. These areas may be designed as wild lands, wilderness areas, natural areas or historic areas.

281. Another trend is one delegating land use controls to State agencies which have not previously had such authority. These agencies include fish and game departments as well as water quality regulatory bodies. The fish and game department's primary function has been to regulate the wildlife population within the state. However, some states have granted additional authority to enjoin land uses which are incompatible with the habitats of protected species. Thus a DMCA may be prevented in an area if a species habitat would be adversely affected. Water quality commissions, too, have been granted authority to regulate construction activities in State waterways under the guise of water quality controls. In some states, these laws may attempt to regulate Corps dredge and fill activities.

282. To assist in carrying out the policies of these environmental laws, many states and local jurisdictions have followed the lead of the National Environmental Policy Act (NEPA), and have enacted similar legislation or ordinances. These laws require State or local agencies to file a report that evaluates the environmental impacts of proposed actions that may significantly affect the environment. Many Corps dredging projects involve local sponsors who obtain land rights necessary to carry out the project. These local sponsors may be subject to the reporting requirements of a State or local law similar to NEPA, even though the preparation of an environmental impact statement under NEPA may eliminate the need for part or all of the local report. Any proposed land use for a DMCA may be subject to a listing of possible adverse impacts and to recognition of mitigation measures. While many State laws incorporate no real authority to stop a project that involves adverse impacts, court interpretations of NEPA and similar State laws indicate such implied authority in the policy of the acts. Thus, a proposed DMCA land use may be subject to environmental assessment reports and may also be subject to an injunction if the discretionary decision that follows the report appears to ignore the adverse impacts.

283. A developing trend in the area of environmental law is the recognition that the ecosystem itself has certain rights; one of which is standing in court. In the past, people could argue for an area's environmental preservation only if they had an economic interest in the land. Thus, environmental groups were precluded from litigating for an area's presentation unless members of the group had a direct economic interest. A group's common environmental concern was not sufficient to establish standing in court. Without standing, a court would not reach a determination of other issues. A growing number

of State courts have begun to realize that preservation of an area's natural environment is an issue which should be properly considered. However, if no one person is able (or willing) to establish standing in court, the environmental issues may not be litigated in court. To overcome this, states have allowed environmental groups, as well as private individuals, to raise environmental issues concerning the affects of land development.

4.2.5 Local Laws

284. The study of the regulations and advances of city and county jurisdictions has revealed several trends that permeate this legislation. The major trends in the law are:

a. encouragement of productive versus non-productive land uses;

b. protection of flood hazard areas;

c. State-wide planning pre-empting local laws.

285. The encouragement of productive land uses at the local level is particularly evident in zoning ordinances. At a minimum, the mere creation of a zoning ordinance shows a degree of concern on the part of city planners to provide for a contemplated development pattern throughout the city. By vesting power in a city planner to review development proposals, the local jurisdictions have shown a desire to create a sound environment. Many local jurisdictions, in fact, specifically require the scrutiny of a development project to include a consideration of the environmental, social, and economic effects of such construction.

286. Building codes also include encouragement for productive land uses. Most building codes include regulations for landfill, excavation, and grading which require soil samples and drainage as a condition to granting permits to conduct such

activities. This again illustrates a desire of the local jurisdictions to insure a safe and efficient system of development and growth.

287. Another widespread trend among local jurisdictions is the continuing use of floodplain management programs. Floodplain management is one of the most restrictive regulations that confront planners and developers of DMCAs. Local jurisdictions with these programs regulate all activities in the flood hazard area. As a general rule, no construction, development or land use can block, back up or spread floodwaters. A local engineer reviews all applications for land uses to determine if there would be a flood problem. The city or county must adopt these requirements as a minimum if it is to qualify for the insurance. Some local jurisdictions adopt more stringent regulations as the need for them is felt to rise.

288. There are also indications that State planning goals are preempting local law in certain areas. This trend is not widespread but it bears mentioning because of the fluid nature of laws, local laws in particular. Oregon, for example, recently adopted a comprehensive statewide master plan which sets guidelines for local authorities to implement.

4.2.6 Port District Laws

289. The major trend in port district legislation affecting the implementation of DMCAs is the shift toward state control over local port planning authorities. Traditionally, the land use plan in effect in the port district was prepared by the port regulatory or land use planning authority. Other ports have master plans which regulate land use within the district. The study group has found a trend in port district regulations to prepare guidelines pursuant to State coastal management plans and State environmental quality programs. This shift is in keeping with the growing State concern of protecting coastal regions.

4.3 TRENDS IN DECISIONMAKING AND PLANNING PROCEDURES AFFECTING THE COMPLEXITY OF LAND USE DECISIONS

290. There are a number of procedures in planning and decisionmaking that will have both long- and short-term effects on DMCA land use. Some of the trends affecting DMCAs are identified as follows:

4.3.1 Procedural Simplifications in Environmental Assessments

291. As experience in the preparation of environmental assessment reports is gained, procedural simplifications will be adopted that will reduce the complexity of initially specifying DMCA end use. Several of these simplifications are already underway in a number of jurisdictions, including: (a) clarification and definition of lead agency requirements; (b) the delimiting of issues to be covered and depth of treatment needed in order to optimize the utility of the information produced; and (c) the adoption of blanket or multi-project environmental impact reports, preempting the necessity for a special report and hearings on every individual project that is planned for the same area. Overall, these trends will work to the Corps advantage, and should be encouraged in a broad application to all dredge and fill projects.

4.3.2 State and Local Mandates for Greater Specificity in Land Use Planning

292. The general trend toward more precise long-term land use planning should prove to be favorable for DMCA use. This belief is based on the theory that land use uncertainty works to the disadvantage in the effective use of DMCA lands. It would be to the Corps' advantage to have DMCAs specifically dealt with in these long-term plans. Thus, the Corps should urge that DMCAs be specifically addressed in State

legislation relating to planning. The more detailed the initial planning for DMCA use, the easier it will be to deal with the individual projects.

4.3.3 Increased Tendency to Cut Short Protracted Challenges to Projects

293. There is an increasing awareness on the part of elected officials that protracted debate by special interest groups and analytical studies on economic and environmental trade-offs become counterproductive after a certain point. This is true, especially when the decision must ultimately be based on a balancing of personal values. After a series of long, drawn-out hearings, the final decision rests upon a value judgment balancing the adverse environmental affects with the degree of public benefit to be received. Only in rare cases will a project be halted which is very beneficial to the public unless the environmental consequences cannot be mitigated. In cases of this type, protracted debates only serve to pacify the environmentalists and ultimately delay the final completion of the project.

4.4 STRATEGIES AND GUIDLINES FOR THE ENCOURAGEMENT OF PRODUCTIVE LAND USES OF DMCAs

4.4.1 To Ensure Compability with Federal Legislation

294. The thrust of the impact of Federal legislation on implementation of DMCAs is the determination of national policy for environmental control. This enables the Federal government to monitor activities in areas of environmental concern. The national policy may be carried out merely by mandate of policy or by requiring a permit for land uses in environmentally-sensitive areas. The institution of DMCAs becomes a little more difficult in these latter areas. It should be noted that the compliance with Federal laws and regulations is not as severe as with State and some local regulations and ordinances. Compatibility with Federal legislation can best be achieved by surveying every pertinent law. This would include surveying each State and local regulation created pursuant to a Federal mandate. In order to avoid repetition of discussion in other sections, however, the general features of such enabling legislation will be discussed. Strategies are discussed for those laws and regulations which the study group felt are most likely to be encountered by the Corps of Engineers.

Coastal Zone Management Act

295. This Act seeks generally to encourage State implementation of planning and regulatory authority over coastal zones. Despite the delegation of planning and management authority to the states, the Federal government maintains a degree of supervision with a permit program.

296. Cooperation with the Secretary of the Commerce, who administers the Act is strongly encouraged to assure comprehensive planning of DMCAs. The result of such co-operation has the added impetus of providing more money

for the development of coastal areas. Cooperation with the administrator might also result in the appropriation of funds by Congress which are earmarked for use by State coastal planners for establishing DMCAs.

Council on Environmental Quality

297. The Council on Environmental Quality was established by the National Environmental Policy Act and staffed by the Environmental Quality Improvement Act. This body is responsible for the implementation of a national policy of environmental awareness into development activities. The acts creating the Council require a statement of the environmental impact of the proposed study.

298. The mandates of the environmental quality acts are clear. Any proposed DMCA should contain a statement of the environmental effects of the dredging operation, site selection, and the proposed land use of the DMCA. By including the environmental effects of a proposed land use, the Corps of Engineers would alleviate the necessity for an additional impact statement at a later date. This strategy represents a swing from traditional environmental assessment laws. As will be shown, this strategy is useful in ensuring compatibility with other regulatory bodies.

Water Quality Laws

299. Several pieces of Federal legislation address the need to improve and preserve water quality. The Federal Water Pollution Control Act imposes restrictions on disposal of pollutants. While dredge material, in general, does not consist of polluted matter, this Act is highlighted because of an important multi-agency strategy that is open to the Corps of Engineers. The Corps of Engineers is jointly named with the Environmental Protection Agency to conduct research to find long-term solutions to problems of possible adverse environmental effects of dredge material disposal. The Corps

of Engineers knowledge with respect to water-related quality could result in the establishment of a dual agency responsible for planning land uses in areas designated as having water quality control problems. Part of the planning could involve a presentation on the inclusion of DMCA suggestions for land use. This coordination would require careful construction of a proposed DMCA facility to meet rigid Environmental Protection Agency emission regulations.

4.4.2 To Ensure Compatibility with State Legislation

300. State laws and regulations, as compared to Federal or local laws, present the most severe constraints on productive land uses. States impose constraints basically through laws directed at land preservation or natural resource preservation (including fish and wildlife). They also impose impediments to any land use through the amount of legislation which gives permitting or licensing authorities to State agencies. Where several State agency approvals are necessary, the formulation and implementation of DMCA land use plans becomes more difficult.

301. The states vary considerably in the number of laws enacted which impact land use of DMCAs and in the severity of the constraints imposed by the different laws. In order to comply with a State's laws, each individual law should be consulted. However, as discussed below, there are general features present in the various categories of laws, from which general strategies can be derived.

State Wetlands Protection Acts

302. Wetlands laws generally require local, regional, or State agencies to formulate a land use plan that establishes allowable uses within the wetlands area. A list of land use priorities is often established. Once a plan is formulated, all development must be in conformity with the plan. Permits are often required for all development

activities. Some states have included in their wetlands laws, provisions requiring planning for the creation and use of DMCAs. However, the majority of such laws contain no such provision. In these cases, Corps strategy should be to urge inclusion of DMCAs planning into the wetlands plans.

303. As the laws are relatively recent and oftentimes the land use plans are still being developed, there are several opportunities for the Corps to participate in planning for uses of DMCAs. In those cases where local agencies prepare plans under State mandate, but subject to State approval, the State specifications could require the recognition of the need for creation of DMCAs and special land uses pertaining thereto. In order to promote this process, the Corps could provide model language for the specifications. Where the state has yet to pass a wetlands protection act but such is being considered, it would be advisable for the Corps to request inclusion of specific language dealing with DMCAs.

304. In addition, because of the Corps experience in wetland areas, State and local agencies should welcome technical information on the environmental and economic impact of alternative DMCA land uses. This should serve to smooth environmental review at two points; at the time of general plan adoption and, subsequently, for each significant project, as it is proposed.

305. In addition, where the state law requires a development permit, the Corps should consult the State permitting agency for procedures to be followed. In order to obtain a permit for the creation of DMCAs, it may be necessary to have planned for the DMCA end use. Local

wetlands commissions may also require a permit in addition to the State permit. The Corps should seek to consolidate its efforts when two or more permits are necessary, by seeking to provide enough information to satisfy the permit requirements at all levels.

State Water Quality Laws

306. Basically, most states have some type of water quality control law directed at discharges into state waterways, or at activities affecting groundwater systems. Any end use of a DMCA would need to comply with these requirements, but this type of law does not directly impact land use. Several states, however, seek to regulate construction activities in State waters, for the purpose of controlling water quality. These states require a permit for such activities.

307. The Corps strategies in regard to construction regulating laws should be primarily toward supplying technical information to assist in construction approval. This information should specifically address the particular water quality implications of DMCA land use. Additional strategies would be to provide model language to the state encouraging special planning for DMCAs. Special circumstances may argue for direct financial support for DMCA land use planning through State water quality control agencies, possibly by earmarking an increment of Level B planning grants for this purpose.

Wild and Scenic River & Wilderness Conservation Laws

308. The strategies open to the Corps relative to ameliorating the effects of both these types of laws is very similar. Both types of laws allow the state to design areas within the state for preservation. The areas so designated are either on State-owned land or the state

acquires an interest or easement in the land. After an area is designed for protection, almost all uses which would alter the natural condition of the land would be prohibited. Unless DMCA use is anticipated, the general prohibitions, resulting from these two types of laws, may effectively rule out DMCA creation. Thus, the Corps' objective should be to ensure that the land use provisions under these laws do not indirectly prohibit or frustrate the creation and use of DMCAs that would ultimately be beneficial to the environment. This objective can be accomplished by providing technical information regarding Corps rehabilitation techniques. Oftentimes, amendments to existing legislation may be needed to provide for DMCA creation. Model language can be provided to the various states, including provision for DMCA creation and end use, consistent with the setting.

Fish and Game Laws

309. Some states have enacted laws granting authority to state fish and game agencies to enjoin land uses incompatible with preservation of the habitat of protected species. Where state laws of this type are encountered, the principal strategy should be to provide for mitigation measures. The Corps can provide both general and special technical information to assist in the preparation of environmental impact statements. Federal agencies charged with assisting the states in the preservation of habitat have developed considerable expertise in the design of mitigation measures. In addition to mitigation efforts, DMCA end uses of considerable benefit to public interests may serve to reduce State opposition to DMCA creation which will disturb wildlife habitats.

State Environmental Impact Assessment Laws

310. Many states have enacted "little NEPAs," which are similar in many respects to the National Environmental Policy Act. Perhaps the single most complicating factor associated with the preparation of an environmental impact report at the local level has to do with the adequacy of the treatment of impacts. Studies in the State of California, for example, show that many issues are consistently analyzed at a level of detail that has very little utility for the subsequent land-use decision-making process. Conversely, local governments sometimes have extreme difficulty in evaluting the impact of the technical issues raised, either because of lack of staff expertise or lack of funds for hiring the expertise. As a direct result of this "information gap", the impact report is often challeneged as indaequate or there are extensive delays in processing because local staffs are fearful of the challenge.

311. For many local governmental entities, an efficient treatment of the impacts associated with DMCA land use is difficult. This is so because the DMCA raises many potential technical issues not found in most other projects. Perhaps the best strategy is for the Corps to continue to provide generalized impact information, as well as selected case studies that will assist local government staffs in identification and treatment of key issues.

312. In cases where a number of agencies must share in a discretionary decision on the project, one agency may be required by law to act as a lead agency in the preparation of the environmental impact statement. Where the discretionary decisions are confined to state agencies, there is an advantage to having one agency identified as being responsible for the analysis of impacts associated with the creation of the DMCA, even though other agencies may be

responsible for specialized comments relative to that decision. It appears to be advantageous to the state, the private developer, and the Corps to have responsibilities for document preparation and hearings centralized.

313. In addition to the more efficient treatment of issues and a centralizing of processing authority, there is a third strategy that may be employed through the environmental assessment procedure. This involves the inclusion of DMCA land uses as part of the assessment dealing with the dredging project itself.

314. Environmental impact statements for NEW channel projects generally contain a planned use for the DMCAs involved, and the reasons for this are easily traced to:

a. The high levels of involvement in new dredge projects by all of the affected local (and state) planning agencies, and

b. the need that the Corps has to quantify all of the benefits and costs associated with a project prior to their request for congressional funding action.

315. End uses are sometimes not stated at the request of local governments that still have several options open for development and wish to retain maximum flexibility.

316. Most environmental impact statements for CONTINUING dredge operations for channel maintenance DO NOT state the end uses planned for disposal sites. Often, of course, future disposal sites are not yet firmly identified, and even when they are known, planning has not preceeded to the point that an end use can be specified.

317. A strategy that can be employed to obtain early local level agreement on end uses of the DMCAs is to include the list of acceptable end uses that reflect any general zoning, existing uses in the area, and environmental concerns,

as appropriate, in the environmental impact statement for the maintenance dredging.

318. While it is recognized that the environmental impact statement for actual dredge and fill operations can often be divorced entirely from the question of end use of a filled DMCA, the two factors are often combined when the end use of the land (a bird refuge or public park) is thought to ameliorate the interim environmental disturbance created by the dredge and fill operation. The disadvantage of inserting the proposed end use of the DMCA into an environmental impact statement for dredge and fill is that this potentially controversial question will delay approval of the environmental impact statement and the commencement of the much-needed channel restoration work.

319. The advantage is that the total cost and processing time of the environmental impact statement for the dredging and the approval of an end use on publicly-owned land, will be reduced by having both questions resolved at one set of hearings, with one set of comments to be addressed. This, at the same time, clears the way for a beneficial use of the filled land.

320. A recommended strategy then is to attempt to include in every channel maintenance environmental impact statement the probable uses that will be made of any filled land. If it appears that the issue of ultimate use of the DMCA will cause an inordinate delay in processing the environmental impact statement, then the section dealing with end use can be removed and processed separately, perhaps at a much later date.

321. The ultimate weapon in the implementation of such a "combined approval strategy" may be the insertion of a "guaranteed development condition" in the Rivers and Harbors Act of 1889, Section 10 permit for the dredge and fill

operation. Such a condition may be useful in satisfying local interests that they will obtain the benefits promised in exchange for the wetlands or waterbottoms that are sacrificed for a viable port. It also serves to assure that the Corps is not caught in the middle by local interests that have quite different intentions for use of the land, after an environmental impact statement for dredge and fill is approved.

State Land Use Control Laws

322. State land use laws may have a severe impact upon DMCA creation and end use. State laws which have set aside areas of critical State concern and then place restrictions upon the use of such land, may have the effect of barring completely DMCA creation in the area. In some cases, the State agency may only have advisory authority as to land use planning. However, DMCA creation may here be affected, as the State plan will influence the local planning process.

323. Corps' strategy relative to both of these State planning laws should be to encourage the adoption of specific language dealing with necessary creation and end use of DMCAs within the areas of critical concern. Guidelines and financial support for planning studies may also be warranted, and such guidelines may suggest that confined disposal sites for dredged material be placed within an area of critical concern, only as a last resort. Technical information as to the Corps' rehabilitative techniques should be provided to encourage language favoring DMCAs.

Public Land Laws

324. Where the state owns the land that is used as a DMCA, the state will obviously exercise control over the end use of such land. State laws often direct a priority of uses for State-owned land (e.g., public or public recreation) and DMCA use would be controlled by this type of law in the applicable situation. Another type of law within this category, that could impact DMCA use, are laws that proclaim state ownership of waterbottoms or submerged lands and direct use of such lands for public or other special purposes. DMCA projects creating fast land in a river or lake site may be subject to such laws. Also included in this category are laws that establish a charge for use of State-owned bottom materials.

325. In order to encourage the most creative uses of new land, guidelines on such uses may be issued by the Corps, including information on the ultimate negative economic impact of charges for dredged material by the states. A model statute dealing with DMCA uses should define the circumstances under which royalties or severance fees are counterproductive. Such a statue should encourage the acceptance of the principal that material from U.S. Government navigational dredging projects, placed upon any waterside or upland site, is for a "public purpose", irrespective of who owns the site.

Sediment or Erosion Control Laws

326. The purpose of sediment of erosion control laws is to control erosion caused by construction and agricultural activities. The use to be made of a DMCA is usually not directly affected by such laws, but when a project may entail substantial ground distrubance, or changes in surrounding draining patterns, the costs to comply with State regulations may impact the planned use. Most State regulations

provide for permitting systems which ensure the proper techniques to prevent soil erosion. The Corps should have no problem meeting the technical requiements. Thus, the Corps' only strategy in regard to laws of this type should be to urge legislation which will provide for multiple agency coordination.

Floodplain Protection Acts

327. Federal law requires certain legislation to provide State control of land uses in flood-prone area before Federal insurance against flood damage will be provided. State response to this has been generally to require that local governments enact regulations designed to restrict land uses in areas subject to floods. Because of the Corps' experience in working in flood-prone areas, local governments should find Corps suggestions as to land uses a beneficial aid in floodplain planning. Guidelines for certain restricted land uses on DMCAs in flood-prone areas could be issued by the Corps, for inclusion in local floodplain zoning ordinances and for general land-use planning. The most effective strategy appears to be the utilization of existing water quantity/quality planning agencies to select disposal sites which can support future uses without increasing the high water mark or a 100-year flood (in an inhabited area).

Agricultural Land Conservation Laws

328. Agricultural land conservation laws have been enacted to attempt to save dwindling farm acreage. One of the methods used establishes agricultural preserves, the effect of which may prohibit DMCA creation. When encountering laws of this type, the Corps strategy would be to assist states in recognizing the positive impacts of necessary DMCA creation. Where possible, agricultural use of DMCA land may be the only alternative acceptable to the state.

4.4.3 To Ensure Compability with Multiple Agencies

329. Oftentimes, DMCA creation and land use require approval from a number of state and local agencies. These multiple-agency decisions may involve time-consuming permit procedures as well as public hearings. If these procedures could be consolidated, it would simplify the approval process and may even result in a reduced cost to the developer.

330. A number of state environmental assessment laws provide a "lead agency" concept. Thus, where two or more agencies are responsible for a project's environmental impact report, one agency is appointed to serve as lead agency. The lead agency is the one principally responsible for carrying out or approving the project and thus becomes responsible for the single environmental impact report.

331. While lead agency requirements are incorporated in some state laws dealing with environmental assessment preparation, the concept can be extended to all multiple-agency approvals of DMCA creation and land use. This may be accomplished by special legislation, or as appropriate, through the amendment of any one of the categories of State law affecting the agencies that are normally involved in permit approval. While the lead agency concept does not guarantee that a land use decision or commitment will be made, it does serve to simplify the approval process.

332. The Washington Environmental Coordination Procedures Act is a good example of a law which attempts to coordinate several permit procedures. The law makes no mention of the State environmental assessment law. An ideal coordination procedure would be one in which both the environmental assessment procedure and all permit procedures could be combined. However, the Washington law creates an optional

procedure for centralized, coordinated processing of permit applications which State and local governments require for a developer's use of air, water and land. The plan requires that a master application, containing precise information as to the location and nature of the project, be furnished to the State coordinating agency. This agency must submit copies of the master application to all State agencies with a possible interest in the project. If an agency fails to affirmatively respond that it has an interest within 15 days, it will be precluded thereafter from enforcing its regulatory laws upon the developer. The State coordinating agency will then assemble an application for every individual permit needed. The State agency will then return the completed applications to each individual agency, which, in turn sends its final decision back to the State agency. All agency decisions are then incorporated into one document without modification and forwarded to the applicant. If public hearings are required prior to any final decisions, these, too, are coordinated into one public hearing.

333. Although final decisions are still necessary from each agency, the procedures are greatly simplified and the applicant can be assured he has complied with all necessary procedures. Corps strategy should be to urge that all states adopt this type of law, including coordination of environmental assessment procedures. A desirable addition would also be to include more local government permit agencies than the present Washington law provides.

4.4.4 To Ensure Compatibility with and Receive Support from Local Governments for the Creation of New Projects

334. Land use controls in local jurisdictions are generally restrictive because they reflect local concern for development in the immediate area. But when compared with State regulations, local zoning ordinances and building codes

are more common and easier to get around. This is generally true due to the fact that variances are granted to allow land uses outside the scope of existing development practices. However, sidestepping local ordinances does not promote support from local governments. For this reason, the following general strategies are discussed.

335. One of the more restrictive aspects of local regulation is floodplain management programs enacted pursuant to Federal legislation. Land uses in flood hazard areas within these programs are severely restricted to prevent unusual flood damage. Local planning studies by the Corps of Engineers should include a careful assessment of the Federal requirements for floodplain management since the majority of local programs are patterned after the Federal model. Incorporation of a consideration of flood protection programs into DMCA planning guidelines would provide local developers with an excellent model for any potential land use involving a dredge or fill operation. Another alternative, of course, would be to focus DMCA planning guidelines on the selection sites which would support future uses wihtout increasing the flood hazard.

336. Local zoning ordinances and building codes are the most direct and probably the most prevalent impacts on DMCAs within the local jurisdiction. However, this impact is not as inhibiting as the State enabling legislation. As mentioned, the State laws define the limits of local authority to control land uses. Again, local support for new land uses, including future uses on DMCAs, is still a strategy open to Corps of Engineer planners. Planning guidelines which consider model legislation such as discussed in Section 3.5 will demonstrate an awareness of local land use concerns which should win favor among local planners.

The Corps of Engineers would be better suited in these cases to supply the needed technical information.

4.4.5 Special Strategies and Guidelines in Planning Uses for DMCAs

337. The majority of laws and regulations encountered on the state and local level fail to make specific mention of DMCAs, although the laws by their very nature do regulate the creation and use of DMCAs. Because of the special nature of DMCA land, adequate consideration of the uses of such land is often not provided for in existing legislation. It would be to the Corps advantage to fund or promote special planning studies, whereby State and local bodies will become aware of the need for DMCA provisions. The studies should emphasize the public need for DMCA creation and the beneficial uses which can be put to such land. Rather than prohibiting DMCA creation in certain areas, laws should be rewritten to provide planned DMCA sites where the most public benefit can be gained.

338. In addition to planning studies, the Corps can provide guidelines drawn up to provide sufficient recognition for DMCA creation and use. These guidelines, if properly written to achieve a proper balance between Corps feasibility studies and public interest group desires, should help to reduce adverse pressures against DMCA creation and use.

339. Formulation of a use or category of uses prior to commencement of dredging operations should serve to reduce delays encountered in the final land use permit procedures. If the proposed uses are welcomed by the local community or are consistent with state planning, this should help to undangle and increase the efficiency along the administrative processes.

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Stream Protection Law, N.Y. Envir. Conserv. Law Sections 15-0501-0515 (McKinney 1966).

Wild, Scenic and Recreational River System, N.Y. Envir. Conserv. Law Sections 15-2701-2723 (McKinney 1972).

Protection of Natural and Man-Made Beauty Law, N.Y. Exec. Law Sections 49-0101-0111 (McKinney 1972).

Land Conservation, N.Y. Const. art 14, Sections 1-4.

Fish & Wildlife Law, N.Y. Envir. Conserv. Law Section 11-0303 et seq. (McKinney 1972).

State Environmental Quality Control Law, N.Y. Envir. Conserv. Law Sections 0101-0115 (McKinney 1976).

Adirondack Park Agency, N.Y. Exec. Law Sections 27-800-819 (McKinney 1971).

Soil Conservation District Law, N.Y. Soil & Water Conserv. Dist. Law Sections 3-9 (McKinney 1977).

Floodplain Protection Law. N.Y. Envir. Conserv. Law Sections 36-0103-0115 (McKinney 1975).

Agricultural District Law, N.Y. Agric. & Mkts. Law Sections 25AA-300-307 (McKinney 1971).

Acquisition of Open-Space Lands Law, N.Y. Gen. Mun. Law Section 13-247 (McKinney 1963).

Local Environmental Management Councils, N.Y. Envir. Conserv. Law Sections 47-0101 et seq. (McKinney 1973).

Forest Taxation, N.Y. Real Prop. Tax Law Sections 4-480a. (McKinney 1977).

North Carolina

Coastal Area Management Act, N.C. Gen. Stat. 113A Section 100 et seq. (1973).

Permits to Dredge, N.C. Gen. Stat. 113 Sections 229, 230 (1975).

Natural and Scenic Rivers Act, N.C. Gen Stat. 113A Section 30 et seq. (1973).

North Carolina Land Conservancy Corporation, N.C. Gen. Stat. 113A Sections 135-149 (1973).

Land Policy Act, N.C. Gen. Stat. 113A Sections 150-159 (1974).

State Land Law, N.C. Gen Stat. 146 Section 6 (1959).

Sedimentation Pollution Control Act, N.C. Gen. Stat. 113A Sections 50-71 (1973).

Floodway Regulation, N.C. Gen. Stat. 143 Section 215.51 et seq. (1973).

Acquisition of Open Space, N.C. Gen. Stat. 160A Sections 401-410 (1971).

Agricultural, Horticultural and Forestland, N.C. Gen. Stat. 105 Section 277.2 (1975).

Oregon

Coastal Zones, Or. Rev. Stat. Section 191.110 et seq. (1971).

Ocean Shores: State Recreation Areas, Or. Rev. Stat. Section 390.605 et seq. (1969).

Scenic Waterways, Or. Rev. Stat. Section 390.805 et seq. (1973).

Natural Areas Preserves, Or. Rev. Stat. Section 273.562 et seq. (1973).

Comprehensive Planning Coordination; Planning Districts, Or. Rev. Stat. Section 197.005 et seq. (1973).

Removal of Material; Filling, Or. Rev. Stat. Section 541.605 et seq. (1973).

Oregon (cont'd.)

Removing Material from Submerged Land, Or. Rev. Stat. Section 274.525 (1961).

Soil and Water Conservation, Or. Rev. Stat. Section 568.210 et seq. (1975).

Agricultural Land Use, Or. Rev. Stat. Section 215.203 et seq. (1973).

Open Space Lands, Or. Rev. Stat. Section 308.740 et seq. (1971).

Texas

Texas Coastal Waterway Act, Tex. Rev. Civ. Stat. Ann. art. 5415e-2 (Vernon 1973).

Excavation from Gulf Coast and Public Beaches, Tex. Rev. Civ. Stat. Ann. art. 5414g (Vernon 1975).

Lease or Sale of State-Owned Lands or Flats, Tex. Water Code Ann. titl. 4, Sections 61.116, 61.117 (Vernon 1973).

State Soil Conservation, Tex. Rev. Civ. Stat. Ann. art. 165a-4 (Vernon 1975).

Flood Insurance Law, Tex. Rev. Civ. Stat. Ann art. 1581-1 (Vernon 1969).

Virginia

Wetlands and Subaqueous Lands, Va. Code Section 62.1 et seq. (1972).

Scenic Rivers, Va. Code Section 10-167 et seq. (1970).

Environmental Impact Reports of State Agencies, Va. Code Section 10-17.107 et seq. (1977).

Critical Environmental Areas, Va. Code Section 10-187 et seq. (1972).

Authority Required for Use of Subaqueous Beds, Va. Code Sections 62.1-3 (1975).

Erosion and Sediment Control Law, Va. Code 21-81.1 et seq. (1973).

Flood Damage Reduction Act, Va. Code Section 62.1-44.108 et seq. (1977).

Washington

Shoreline Management Act, Wash. Rev. Code Section 90.58 et seq. (1971).

Tidelands, Shorelands and Harbor Areas, Wash. Rev. Code Section 79.16 (1974).

Natural Area Preserves, Wash. Rev. Code Section 79.70 (1972).

Fish Conservation, Wash. Rev. Code Section 75.20 (1975).

State Environmental Policy Act, Wash. Rev. Code Section 43.21C (1974).

Environmental Procedures Coordination Act, Wash. Rev. Code Section 90.62 et seq. (1974).

Removal of Material Laws, Wash. Rev. Code Sections 79.01-79.178 (1965).

Harbors and Tide Waters, Wash. Const. art. 15 Section 1 (1931).

Flood Control Laws, Wash. Rev. Code Section 86 et seq. (1973).

Wisconsin

Shoreline Management Program, Wis. Stat. Sections 115.01-115.05 (1970).

Wild Rivers Laws, Wis. Stat. Section 30.26 (1969).

Conservation Act, Wis. Stat. Section 23.09 (1976).

Governmental Consideration of Environmental Impact, Wis. Stat. Section 1.11 (1974).

Submerged Land, Wis. Stat. Sections 30.12, 30.19, 30.20.

Soil and Water Conservation District Law. Wis. Stat. Section 92.01 (1961).

Flood Plain Zoning, Wis. Stat. Section 87.30 (1976).

LOCAL ENABLING ACTS

California	- Cal. Gov't Code Section 65800 et seq.
Florida	- Fla. Stat. Section 163.160 et seq.
Georgia	- Ga. Code Ann. Section 69-801 et seq.
Illinois	- Ill. Rev. Stat. ch. 24 & 34.
Louisiana	- La. Rev. Stat. Ann. Section 4721 (West).
Maryland	- Md. Ann. Code art. 66 B, Section 1 et seq.
Massachusetts	- Mass. Gen. Laws. Ann. ch. 40B, Sections 20-23. Mass. Gen. Laws. Ann. ch. 40C, Sections 1-13. Mass. Gen. Laws. Ann. ch. 40A, Sections 1-22; ch. 41, Sections 81A-D; ch. 141, Sections 81K-66.
Michigan	- Mich. Comp. Laws Section 125 et seq.
Mississippi	- Miss. Code Ann. Section 17 et seq.
New York	- N.Y. Town Law Section 16-260 et seq.
North Carolina	- N.C. Gen. Stat. Section 153A-321 et seq; 160A-360 et seq.
Oregon	- Or. Rev. Stat. Section 215 et seq.; Section 217 et seq.
Texas	- Tex. Rev. Civ. Stat. Ann. art. 1011a.
Virginia	- Va. Code Section 15.1-486.
Washington	- Wash. Rev. Code Sections 35A & 36.
Wisconsin	- Wis. Stat. Sections 59.97, 60.74.

PORT DISTRICT ENABLING ACTS

California	- Cal. Harb. & Nav. Code Section 6890 et seq. Cal. Harb. & Nav. Code Section 6290 et seq.
Florida	- Fla. Stat. Section 315 et seq.
Georgia	- Ga. Code Ann. Section 98-201 et seq.
Illinois	- Ill. Rev. Stat. ch. 19 Sections 152-178.
Massachusette	- Mass. Gen Laws. Ann. ch. 91 Section 1-1 et seq. Mass. Gen Laws. Ann. ch. 91A Sections 1-10.
Michigan	- Mich. Comp. Laws Section 120 et seq.
Mississippi	- Miss. Code Ann. Section 59 et seq.
New York	- N.Y. Law Section 6401 et seq.
North Carolina	- N.C. Gen. Stat. Section 143 Section 216 et seq.
Oregon	- Or. Rev. Stat Section 277 et seq.
Texas	- Tex. Water Code Ann. tit. 61, Section 1.
Virginia	- Va. COde Sections 62.1-128
Washington	- Wash. Rev. Code Section 53.
Wisconsin	- Wis. Stat. Section 30.30.

CASES

CREED v. California Coastal Zone Conservation Commission, 43 C.A. 3d 306, 118 Cal. Rptr. 315 (1974).

Environmental Defense Fund v. Corps of Engineers, 492 F.2d 1123 (5th Cir. 1974).

Just v. Marinette County, 56 Wis. 2d 7, 201 N.W.2d 761 (1972).

Kleppe v. New Mexico, 96 S.Ct. 2285 (1976).

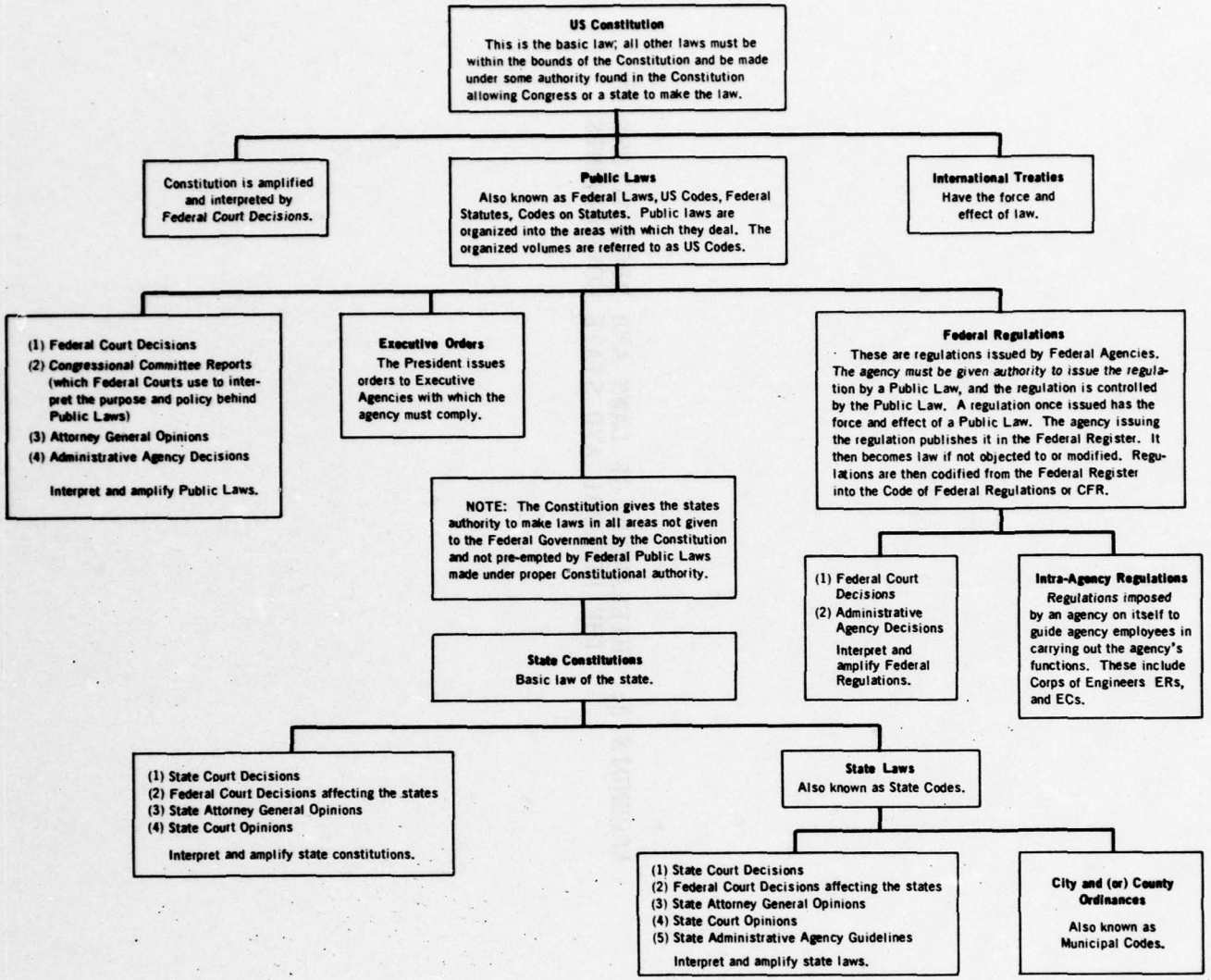
Sierra Club v. Morton, 405 U.S. 727 (1972).

APPENDIX A: KEY WORD LIST USED IN RESEARCH OF STATE LAWS

Agricultural (lands)
Zoning Assessments
Building Codes
Conservation (land)
Coastal Zone
Dredging
Environmental Impact (reports assessment quality)
Erosion Control
Fish and Game
Floodplain Protection (conservation, insurance)
Lakes (dredging)
Land Use (state, local) Planning
Local (zoning, building codes)
Navigation
Open Space
Port (districts, authorities, enabling acts)
Regional Land Use Controls
Rivers (dredging)
Sediment Control
State Lands
Streams (dredging)
Submerged Lands
Water Quality
Waterways
Wetlands
Wildlands Preservation
Wildlife
Wild & Scenic Rivers

APPENDIX B: HIERARCHY OF LAWS AND REGULATIONS OF THE FEDERAL AND STATE GOVERNMENTS

HIERARCHY OF LAWS AND REGULATIONS OF THE FEDERAL AND STATE GOVERNMENTS



APPENDIX C: STATE LAND USE LAW MATRICES

CALIFORNIA

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) (J) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Keene-Nejedly California Wetlands Preservation Act, Calif. Public Resources Code §§5810-5818 (1976).	Department of Parks & Recreation, Department of Fish & Game	To designate lands as wetlands and to plan for their use, and to purchase rights. No regulatory authority is given by this act.	Planning authority over state & private wetlands which include all submerged or intermittently submerged lands.	Where the departments acquire interests in wetlands they do so to protect & preserve. Uses would be very limited.	No	No mention of federal activity.	The policy of this act is to protect and preserve wetlands areas and therefore discourages any uses which will alter natural conditions.	No	No	No	Local agencies are consulted in devising a plan for the protection and preservation of wetlands.
	Calif. Coastal Act, Calif. Public Resources Code §§30000 et seq. (1976).	Calif. Coastal Commission	To require a permit for coastal development & to require local coastal land-use plans.	Coastal area seaward to end of state jurisdiction & inland 1000 yds. from mean high tide as specified by maps (exempts San Francisco Bay area).	Required permits for use restrict uses to those specified by local plans, or port district plans.	No - federal agency specifically included to extent possible under federal law.	No - federal agency specifically included to extent possible under federal law.	Special uses are established by local governments. This act encourages uses that protect quality of coastal environment, balance utilization, maximize public access & recreation. Restricts uses away from developed areas where filling is possible, hazardous industry use in developed areas, uses degrading view or uses not subordinate to area; in scenic areas, uses which restrict access and that increase risk from fire, flood or earthquake.	Yes	Yes		Requires local governments to develop plan for coastal areas and oversees their planning and enforcement, requires consideration of state air-quality regulations, sets up special provisions with port districts, and exempts the area controlled by the Bay Area Conservation & Development Commission (BCDC).
	McAteer Petris Act, Calif. Govt. Code §§66600 et seq. Summary includes regulations under act, Calif. Admin. Code Title 14 §§10110-11060 (1965).	BCDC	To require a permit for any project that includes any change in the use of land and other specified activities.	Generally San Francisco Bay & 100 ft. inland, exact area is specified by this act.	A permit is required for dredge & fill projects & any change in land use. All uses of containment areas would be subject to BCDC authority.	Yes - a major purpose of this legislation was to control filling & land use around the bay by private, public & Corps projects.	No - Corps activity is by implication included.	Uses for ports, water related activities, airports, wildlife resources, water oriented recreation & public assembly, desalinization plants & power plants are recognized as necessary. Any use which involves filling of Bay water areas is restricted as are uses which derogate from public access or don't consider public access.	Yes	Yes - specific permit procedures & appeal procedures are described in the regulations.	No	Where local permits are required they are in addition to the BCDC permit, but the BCDC has the final word on approval of projects within its jurisdiction.
(b) Water Quality Laws	No pertinent law found under this sub-category.											
(c) Wild & Scenic River System Laws	Calif. Wild & Scenic Rivers Act, Calif. Public Resources Code §§5093.50-5093.65 (1972).	Secretary of the Resources Agency	To designate rivers as wild & scenic & to review & approve construction, diversion, or impoundment proposals in or along the rivers & river segments.	The Secretary has authority over a river, its water, bed & shoreline specifically designated by the legislature as wild, scenic or recreational.	Anyone carrying out activities along rivers designated as scenic must consider the restrictions placed on it.	No	No - but state agencies are not permitted to assist the Federal Government in any project having an adverse effect on the rivers.	Uses which maintain the rivers as classified are encouraged. Wild rivers are essentially primitive & unpolluted, generally inaccessible except by trail; scenic rivers are still generally primitive & undeveloped, but accessible by road in places and recreational rivers are readily accessible by road or rail, have some development & may have some impoundment or diversion.	No	No	Yes - activities necessary for flood protection or to supply the domestic water supply are not restricted.	Local authorities assist the Secretary in adoption of a management plan & review of the final plan.
(d) Wild Lands Protection or Land Conservation Laws	Calif. Wilderness Act, Calif. Public Resources Code §§5093.30-5093.40 (1974).	Secretary of the Resources Agency	To recommend areas to be included as state wildlands & adopt guidelines for the management of wilderness areas.	Authority over state-owned lands designated as wilderness.	Once an area is designated as wilderness nearly all uses are prohibited which would alter the natural conditions of the area.	No	No mention of federal activity.	Recreational uses of a primitive & unconfined nature, including hunting & fishing are encouraged.	No	No	No	This act applies to state-owned land, local agencies have no authority over this land.
(e) Fish & Game Habitat Protection Laws	Wildlife Conservation Law, Calif. Fish & Game Code §§1300-1375 (1947).	Department of Fish & Game, Wildlife Conservation Board	Determine areas essential for production & preservation of wildlife, acquire such areas, & manage & construct facilities on land acquired.	Authority over the state owned land acquired for the production & preservation of wildlife.	Once an area is designated as a wildlife preserve, nearly all activities which would alter the natural condition are prohibited.	No	No mention of federal activity.	Recreational uses such as fishing, hunting & shooting are encouraged. Uses which destroy or alter the natural conditions are discouraged.	No	No	No	This act applies to state-owned land, local agencies have no authority over this land.
	Fish & Wildlife Protection & Conservation, Calif. Fish & Game Code §§1600-1606 (1976).	Department of Fish & Game, Wildlife Conservation Board	Approve all proposed construction activity which will alter the flow or bed of any body of water.	Authority over the flow or bed, channel, or bank of any river, stream, or lake in which there is fish or wildlife.	Nearly all construction activities in or around a body of water would require acceptance by the department.		No mention of federal activity.	Uses which will divert, obstruct, or change the natural flow or bed, channel, or bank of any river, stream, or lake in which there are fish or wildlife is discouraged.	Yes	No	Yes - work on existing facilities not involving a substantial change; & emergency work.	No mention of interaction with local authorities.
(f) Environmental Impact Assessment Laws	Calif. Environmental Quality Act, Calif. Public Resources Code §§21000-21174 (1970).	Secretary of the Resources Agency, Office of Planning & Research	Requires the filing of an environmental impact report (EIR) on any activity that could have a significant effect on the environment.	All state & local agencies must meet the requirements of the environmental quality act.	Would require the lead or responsible agency to file an EIR if the activity is to have a significant impact.	No	No mention of federal activity.	Not applicable. The EIR serves as an objective document to identify issues associated with the project.	Need an assessment to determine if an EIR is required.	Yes - Must meet Office of Planning & Research guidelines.	No	Local agencies are to coordinate with the state agencies which are involved.

CALIFORNIA (Continued)

Laws Directed at Land Use Control	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) State Land Use and Land Use Planning Laws	State land use planning laws, Calif. Govt. Code §§65011.1 et seq. (1970, amended 1976).	OPR	To develop state land use policies, coordinate planning of all state agencies & assist local & regional planning.	The OPR has no regulatory powers over any lands; it is a planning agency only.	The state land use plan should be consulted before use is determined, but this law gives the OPR no real authority to control uses.	No	No mention of federal activity.	Uses designated in the plan developed by the OPR would be encouraged.	No	No	No	Local & regional agencies retain regulatory authority over land use by this act. The state agency is advisory only.
(b) Public Land Laws Controlling State-Owned Lands or Submerged Lands	Public Lands - Submerged Land, Calif. Public Resources Code §§6301 et seq. (1941, amended 1943 - 1970).	State Lands Commission	To administer & control all lands under its authority, to lease & dispose of the land & grant permission to deposit, remove, or extract material.	Authority over all ungranted tidelands & submerged lands owned by state & beds of navigable rivers, streams, lakes, bays, estuaries, inlets & straits.	Dredging of submerged lands when done under Corps contract is to be done upon such terms & conditions & for such consideration as is in the best interests of the state.	Yes - dredging activity is dealt with specifically in this act.	Yes - the Corps is exempted from the permit procedure &, when such dredging is in the best interests of the state, need pay only such consideration as is in the best interests of the state.	Uses which are in the best interests of the state are encouraged.	Yes	No	Yes - those having a contract with the Federal Government or any authorized public agency are exempted from the permit procedure.	This act applies to state-owned lands; local agencies have no authority over this land. However, cities & counties may have leases over tidal and submerged lands to which they have authority.
(c) Sediment or Erosion Control Laws	No pertinent laws found under this category.											
(d) Floodplain Protection Laws	Cobey-Alquist Flood Plain Management Act, Calif., Water Code §§8400 et seq. (1965, amended 1971 - 1973).	Department of Water Resources, State Reclamation Board	Designate certain areas as floodways, review floodplain management plans & establish regulations governing floodplain control.	Authority over all designated floodways.	Activities in a designated floodway are restricted by local plans developed pursuant to this law.	No	No mention of federal activity.	Uses which endanger life or significantly restrict the carrying capacity of the designated floodway are prohibited.	No	No	Yes - public utilities are exempted.	Local public agencies are required to submit to the Department or Board a floodplain management plan which must be approved before money is appropriated for the project.
(e) Agricultural Zoning Laws	Calif. Land Conservation Act, or Williamson Act, Calif. Govt. Code §§51200 et seq. (1965, amended 1967 - 1971).	No state administrative agency; governed by city councils or county board of supervisors.	Local agencies to purchase rights so as to restrict the use of agricultural land & to establish agricultural preserves devoted to agricultural, recreational & open-space uses.	All land within local jurisdiction could be affected by this act.	If a local agency has designated land as agricultural, recreational or open-space land, no other use is permissible.	No	No mention of federal activity.	The premature & unnecessary conversion of prime agricultural land to urban uses is discouraged.	No	No	No	There is no state control established. Local authorities are granted the opportunity to preserve land for agricultural, recreational, or open-space use. No public improvements by the state are allowed on preserve areas. No agency may acquire agricultural land where other land is available.
(f) Local Zoning Enabling Laws	Zoning Enabling Laws, Calif. Govt. Code §§65800 et seq. (1969, amended 1970 - 1973).	No state administrative agency; the act enables local actions only.	Local agencies to adopt planning & zoning regulations as to the use of buildings, structures & land, & to adopt local open-space ordinances.	All land within local jurisdiction affected by this act.	This act gives local governments the authority to control uses of containment areas.	No	No mention of federal activity.	No specific uses are directly discouraged or envisioned by the act. Local governments are granted discretion in determining uses.	No	No	Yes - provided that the variance is reasonably related to the use for which the area is zoned.	This enables local governments to zone & requires local planning prior to zoning. No mention of state enforcement.
	Airport Land Use Commission, Calif. Public Utilities Code §§21670-21677 (1967, amended 1970 - 1975).	No state administrative agency, the act enables local actions only.	The creation of local commissions to formulate a land use plan surrounding airports & to recommend regulations on buildings near airports.	All land within local jurisdiction affected by this act.	This act gives local commissions some authority to control uses of containment areas around airports.	No	No mention of federal activity.	This act allows local control over the uses as related to air navigation safety & promotion of air commerce.	No	No	No	This enables local airport land use commissions to be formed & allows the formation of comprehensive land use plans. No state enforcement is mentioned.
(g) Port District Enabling Laws	Calif. River Port Districts Enabling Law, Calif. Harbors & Navigation Code §§6890 et seq. (1937, as amended).	No state administrative agency; the act enables local districts only.	River port districts as a public corporation & gives them the power to regulate all activities within the port district.	All land within local jurisdiction affected by this act.	This act gives the local port district the authority to control uses of containment areas.	No	No mention of any exemptions.	No specific uses are directly discouraged or envisioned by the act. Local governments are granted discretion in determining uses.	No	No	No mention of variances.	This enables local river port districts to manage their activities. No mention of state enforcement.
	Calif. Port District Enabling Laws, Calif. Harbors & Navigation Code §§6290 et seq. (1937, as amended).	No state administrative agency; the act enables local districts only.	Port districts as public corporations & gives them powers of regulation concerning activities related to the development of the port.	All land within local jurisdiction affected by this act.	This act gives the local port district the power to control uses of containment areas.	No	No mention of any exemptions.	This act allows local control over the uses encouraged or discouraged by local port district, and related to the development of the port facilities.	No	No	No mention of variances.	This act enables local port districts to regulate port activities. No mention of state enforcement.
(h) Other Laws	Open-Space Lands Act Calif. Govt. Code §§65560-65570 (1970, amended 1971).	Secretary of the Resources Agency, State Office of Planning & Research (OPR)	To ensure that every city & county prepare a local open-space plan & identify areas of critical state concern of agricultural land.	The agencies have no regulatory authority over any lands; they assist the local planning agencies.	The state & local land use plans & designated areas of critical concern should be consulted before use is determined but the agencies have no real authority to control uses.	No	No mention of federal activity.	Uses which preserve open-space land & agricultural areas are encouraged.	No	No	No	Local agencies retain regulatory authority over land use by this act. The state agencies are to ensure that local governments prepare the open-space plans.

FLORIDA

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge and Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Fresh Water Wetlands Laws)	No pertinent laws found under this sub-category.											
(b) Water Quality Laws	Air & Water Pollution Control Act, Fla. Statutes Ch. 403 (1975).	Department of Environmental Regulation (DER)	This act gives the DER many authorities over several environmental areas. One authority involves control over dredging & filling to protect water quality.	No specific geographical area; some authority over all of state.	The regulations issued by the DER require permits for activities involving dredging & filling. The applications must specify expected uses, and uses which may impair water quality presumably will not be allowed.	Yes - in regulations associated with this act dredge & fill activities are specifically mentioned.	No	Uses which have a possible detrimental effect on water quality would be subject to the approval of and conditions imposed by the DER.	Yes	Yes - in regulations.	No	Local agency approval must be obtained prior to permit application to the state, but final permit approval is given by the state.
(c) Wild & Scenic River System Laws	No pertinent laws found under this sub-category.											
(d) Wild Lands Protection or Land Conservation Laws	No pertinent laws found under this sub-category.											
(e) Fish & Game Habitat Protection Laws	Fla. Aquatic Preserve Act, Fla. Statutes §§258.35-258.46 (1975).	Departments of Natural Resources & Environmental Regulation	To approve dredging or filling activities, mining activities and the erection of structures and to regulate other activity within the preserve.	Authority under the act encompasses only state-owned land or waterbottom designated as aquatic preserves.	Land use of a containment area would be restricted if located within a designated aquatic preserve area.	No	No mention of federal activity.	Types of uses not inconsistent with lawful public uses such as sport and commercial fishing, boating and swimming are encouraged.	Yes	No specific mention.	No	This act applies to state-owned land, local agencies have no authority over this land.
(f) Environmental Impact Assessment Laws	No pertinent laws found under this sub-category.											
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	Fla. Environmental Land & Water Management Act, Fla. Statutes Ch. 72-371 §§380.012 et seq. (1972).	Department of Administration, Division of State Planning	To designate land as an area of "critical state concern" & to regulate uses on such land.	Designated areas up to 5% of total Florida land area.	Uses in designated areas must conform to the regulations issued concerning uses of this land.	No	No. U.S. Government agencies are specifically mentioned as included as persons subject to the act.	Areas are designated which have environmental significance; contain archaeological, historical or other natural resources; and which are affected by or have a significant effect upon major public facilities. Presumably uses which derogate from above state interests are restricted.	Yes	No	No. Waivers or variances to regulation of land use are not specifically mentioned.	Local governments may request designation of an area, or the state may act alone. The locals may also regulate the area but this is subject to state approval. Local areas may also enforce. The state will enforce if local governments do not.
	Regional Development Law (this law is part of the above Act) (1972).	Department of Administration, Division of State Planning	To determine which developments may have a "regional impact" & require a review procedure for such developments.	Any lands being developed with a project which has regional impact.	If containment area use is determined to have regional impact, local agencies are required to consider certain impacts prior to approval.	No	No. U.S. Government agencies are specifically mentioned as included as persons subject to the act.	Developments with regional impacts are subject to review similar to an environmental impact statement and presumably uses with significant impacts are restricted.	Yes. Permits are required at the local level not by the state agency.	No	No	Local governments are required to consider the impacts before allowing the development. The act does not specify state authority to overrule local approval of a development; only that locals must consider certain impacts.
	Local Government Comprehensive Planning Act, Fla. Statutes Ch. 163 §§163.3161 et seq. (1975).	Department of Natural Resources, Division of Resource Management	Local governments are to develop a plan in conjunction with the state & regional plans above. Both the state & regional agency have authority to recommend additions to the local plan prior to adoption.	Local governments have authority over all land under their jurisdiction.	Uses must conform to the local land-use plan.	No	No. U.S. Government agencies are specifically mentioned as included as persons subject to the act.	Uses which lead to a balanced future economic, social, physical, environmental & fiscal development of area are encouraged.	Yes	No	Local variances in zoning regulations included in the plan may be allowed.	Regional & the state agencies make recommendations and additions to the local plan but there is no mention of state enforcement of the plans.

FLORIDA (Continued)

Laws Directed at Land Use Control	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge and Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(b) Public Land Laws Controlling State Owner Lands or Submerged Lands	Land Acquisition Trust Fund, Fla. Statutes, Title 17 Ch. 253 §§253.01 et seq. (1972).	Board of Trustees, Internal Improvement Trust Fund	To control uses of state-owned lands.	All state-owned lands except for "spoil areas", land vested in port authorities and other listed exceptions.	This act requires certification by the Corps that no public land is available before material is placed on private land. Advertising for sale of material is required before placement on private land. All funds go to state; 1/2 proceeds go to state if placed on public land & then sold. Islands created by the Corps belong to state; specific findings are required before use or sale of the islands is allowed	Yes - state is to charge for spoil area use as specified in the act for any project by the Corps.	No - Corps specifically included as stated in (G).	Use of public lands vs. private encouraged. State submerged land use, contrary to public interest; which interferes with riparian rights, impedes navigation, interferes with wildlife conservation or with oyster, clam bed or marine productivity, is restricted.	Yes, but Corps activity requires no permit; private dredging does.	No	No	Local governments have no control over state-owned lands, but the state must offer local county commissioners first right of purchase for any such land to be offered for sale.
(c) Sediment or Erosion Control Laws	Soil Conservation Law, Fla. Statutes, Title 33, Ch. 582 (1937, as amended in 1970).	Department of Agriculture & Consumer Services, Soil & Water Conservation Council	To adopt regulations to implement this act, and to assist & help coordinate programs of local soil conservation districts.	The state agencies have no authority over any land. The districts have authority over land within their jurisdiction.	Districts may adoot land use regulations restricting use of containment areas.	No	No mention of federal exemption.	No particular uses are encouraged or discouraged but uses which utilize proper erosion prevention measures are encouraged.	No	No	No	Local districts administer & enforce this law. The Department is the ultimate administrative authority. The Council's powers are primarily advisory.
	Beach & Shore Preservation Act, Fla. Statutes Title 11, Ch. 161 §§161.011 et seq. (1971).	Department of Natural Resources, Division of Marine Resources	To establish coastal construction setback lines, require the removal of any coastal construction or structure which serves no useful purpose & is dangerous.	Authority over state-owned land below the mean high-water line of any tidal water, & authority over land up to the setback lines established by the Department.	No uses involving construction are allowed seaward of the setback lines except as provided by specified exemptions & by waivers. A permit required for activities in other areas.	No	No - "any government agency" specifically subject to the act.	Uses to prevent erosion, hurricane & storm damage as well as preservation of the natural condition of the area are encouraged.	Yes	No	Department may grant variance from the setback requirement if no great danger of erosion.	Local districts are permitted to enact more stringent regulations & setback lines & state waivers may not contravene the local standards. Local bodies may be asked to supervise & regulate activities of the Department.
(d) Floodplain Protection Laws	No pertinent laws found under this sub-category.											
(e) Agricultural Zoning Laws	No pertinent laws found under this sub-category.											
(f) Local Zoning Enabling Laws	Fla. Planning & Zoning Enabling Act, Fla. Statutes Title 11, Ch. 163 §§163.160 et seq. (1969).	No state administrative agency; the act enables local actions only.	Local governments to prepare a development plan, after which area may be divided into districts & regulations including zoning & subdivision controls may be adopted to control land use.	Authority over all land within local jurisdiction.	This act gives local governments the authority to control uses of containment areas.	No	No mention of federal activity.	No specific uses are directly discouraged or envisioned by the Act. Local governments are granted discretion in determining uses.	No	No	No	This act enables local governments to zone & requires planning before zoning. No state authority mentioned.
(g) Port District Enabling Laws	Port Facilities Financing Law, Fla. Statutes, Title 21, Ch. 315 (1975).	No state administrative agency; act enables local port authorities.	To acquire or dispose of property, to maintain & operate such, including port facilities; to construct or permit to be constructed-islands and to fill submerged lands.	Authority over all land within local jurisdiction.	Allows local control over the use of containment areas.	No	The local ports may contract with the Corps in dredging or filling activities.	Uses related to operating port facilities are encouraged.	No	No	No	This act allows local governments control over local ports. No state authority mentioned.



GEORGIA

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Coastal Marshland Protection Act. Georgia Codes Annotated §§45-137 - 45-148 (1970, amended 1972, 1973).	Coastal Marshland Protection Agency	To require a permit for activities in marshland areas of the state.	Coastal marshlands or salt marshes within the estuarine areas of the state.	Yes - any dredging, filling or other use of marshland requires a permit.	No	No mention of federal agency in definition of persons subject to the act. Exemption may be implied.	Purpose is to prevent any removal, filling, dredging, draining, or any other alteration of marshlands which is contrary to public interests.	Yes	Yes (regulations contain specific permit procedural steps).	Yes (agencies & activities incident to public road systems, navigation of rivers & harbors, public utilities, bridges & railroads, pipelines & private docks not obstructing tidal flow.	Local authorities must certify that proposal is not violative of any zoning ordinance or other local restriction.
(b) Water Quality Laws	No pertinent laws found under this sub-category.											
(c) Wild & Scenic River System Laws	Georgia Scenic Rivers Act, Georgia Codes Annotated §§17-901 - 17-905 (1969).	State Council for the Preservation of Natural Areas	To recommend rivers & river segments as scenic, classify their characteristics & acquire interest in land bordering scenic rivers.	Council's authority is advisory only. Recommendations must be approved by General Assembly & administered by another state agency, as designated by the General Assembly	No dam, reservoir or other structure may be built or maintained in scenic river unless authorized by General Assembly.	No	No mention of federal activity.	Rivers are classified either as: Natural - generally inaccessible by trail & shorelines undeveloped & unused; Pastoral - accessible by roads & shorelines mostly undeveloped & unused; Recreational - accessible by road, with limited development. Uses of rivers would be restricted according to their classification.	No	No	Yes (if authorized by an act of the General Assembly).	Land acquired by Council is transferred to the appropriate governmental agency as General Assembly directs.
(d) Wild Lands Protection or Land Conservation Laws	Georgia Natural Areas Council Act., Ga. Codes Annotated §§43-2301 - 43-1207 (1966, amended 1969).	Georgia Natural Areas Council	To recommend areas to be included as natural areas.	Limited authority over state-owned lands designated as natural areas.	Uses of land designated as a natural area may be restricted by other state agencies.	No	No mention of federal activity.	Uses which preserve natural state so that areas can be used for scientific, educational & recreational purposes are encouraged.	No	No	No	This act applies to state-owned land, local agencies have no authority over this land.
	Heritage Trust Act, Ga. Codes Annotated §§43-2301 - 43-2308 (1975).	Heritage Trust Commission	To acquire heritage areas & to supervise & preserve these areas.	Any area of land, marsh, or water having significant historical, natural or cultural value.	Once an area is designated as having heritage value, nearly all uses altering the natural conditions are prohibited.	No	No mention of federal activity.	Uses which preserve the natural area & confer the best & most important benefit to the public are encouraged.	No	No	Yes (any activity of Spewrell Dam Project or a use proposed by a state agency if General Assembly determines in public interest.	This act applies to state-owned land, local agencies have no authority over this land.
(e) Fish & Game Habitat Protection Laws	Endangered Wildlife Act, Ga. Codes Annotated §§43-2101 - 43-2103 (1973).	DNR	Designate species of animal life to be protected & issue rules & regulations for the protection of such.	Authority over animal life on public lands, but not including public streams.	The DNR has no authority to impede construction of any type on public lands.	No	No mention of federal activity.	Activities which involve the capture, killing or selling of protected species or destroy the habitat are discouraged.	No	No	No	This act applies to state-owned land, local agencies have no authority over this land.
(f) Environmental Impact Assessment Laws	No pertinent laws found under this sub-category.											
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	State Planning Commission Law, Ga. Codes Annotated §§40-2122 - 40-2124 (1957, amended 1959).	DCD	To prepare a state development plan, including recommendations as to land use & assist state & federal agencies in development.	The DCD has no regulatory authority over any lands; it is advisory only.	The state land use plan should be consulted before use is determined but the DCD has no authority to control uses.	No	No mention of federal activity.	Uses designated in the plan developed by the DCD would be encouraged.	No	No	No	Local agencies retain regulatory authority over land use by this act; the state agency is advisory only.
(b) Public Land Laws Controlling State Owner Lands or Submerged Lands	No pertinent laws found under this sub-category.											
(c) Sediment or Erosion Control Laws	Soil & Water Conservation Districts Law, Ga. Codes Annotated §§55-1801 - 5-2216 (1937, amended 1962 & 1973).	State Soil & Water Conservation Committee	Assist the various water conservation districts in conserving soil resources.	The state has no regulatory authority; it merely supervises the various soil districts.	Local district authorities should be consulted when use may involve possible soil erosion.	No	No mention of federal activity.	Land use practices that contribute to soil wastage & soil erosion are discouraged.	No	No	No	Local soil conservation districts administer & enforce this law. The state agency disseminates information among the districts.
	Erosion & Sedimentation Act, Ga. Codes Annotated §§5-2301a - 5-2313a (1975).	DNR	To establish minimum requirements for local authorities directed at sediment & erosion control & require permits for land-disturbing activities.	State authority over almost all land-disturbing activities on all land within the state.	Use which involves land-disturbing activities requires permit from local governing authority.	Yes	No mention of federal activity.	Measures which retard or prevent soil erosion & sedimentation are encouraged. Uses that are land-disturbing which cause soil erosion & sedimentation & result in water pollution with resultant damage to domestic, agricultural, recreational, fish & wildlife & other resources are discouraged.	Yes	Must meet the guidelines established by the DNR & also those established by the local governing authority.	Yes, activities conducted by an airport authority or any public utility are exempted but should meet the minimum requirements. There are a number of other land-disturbing activities which are exempted & should be consulted.	State regulations establish the minimum guidelines. Local soil & water conservation districts are free to establish stricter ordinances.

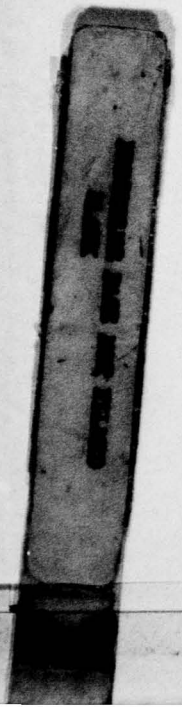


	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) [illegible]	No pertinent laws found under this sub-category.											
(b) Agricultural Zoning Laws	No pertinent laws found under this sub-category.											
(c) Local Zoning Enabling Laws	Ga. Zoning & Planning Laws, Ga. Codes Annotated §§69-801 - 69-827, §§69-1207 - 69-1231 (1946, 1957, as amended).	No state administrative agency, the act enables local actions only.	Local agencies to divide areas into districts & to regulate uses within the districts; including subdivision regulations, & development & building regulations.	All land within local jurisdiction affected by this act.	This act gives local governments the authority to control uses of containment areas.	No	No mention of federal activity.	No specific uses are directly discouraged or envisioned by the Act. Local governments are granted discretion in determining uses.	No	No	No - allows local variance.	This enables local government to zone and requires planning before zoning. No state authority mentioned.
(g) Port District Enabling Laws	State Ports Authority Act, Ga. Codes Annotated §§98-201 - 98-214.1 (1945, as amended).	Georgia Ports Authority	The Ports Authority to acquire, maintain, & develop harbors in the state & to stimulate commerce through the ports.	Authority over all lands owned by the Authority.	This act gives the Authority the power to foster harbor development.	No	No mention of federal activity.	Uses which promote the increased use of port facilities, the development of state docks & the promotion of the agricultural, industrial & natural resources of the state.	No	No	No	This act applies to land owned by the State Ports Authority; local agencies have no authority over this land.

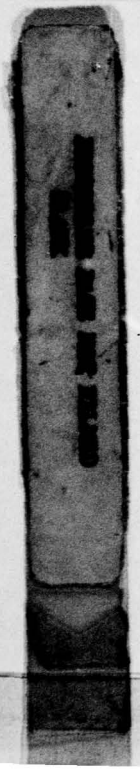
ILLINOIS

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Ill. Coastal Zone Management Program, Preliminary Draft, Nov. 1976. (No law enacted yet; Preliminary Draft, Nov. 1976).	Illinois Department of Transportation	To develop a coastal zone management program for the state, including land use regulations.	Proposed authority over state coastal waters & shorelands adversely affecting or affected by such waters & inland waterways up to 100 yrs., Lake Michigan Flood Plain or High Risk Erosion Hazard Area, including harbors, inlets & lagoons.	Land within area governed by the proposed act would be subject to its regulations, if enacted.	No	No mention of federal exemption.	Proposed uses would encourage improved navigation & transportation facilities, increased open-space areas, more recreational facilities & uses which protect and enhance the area including protection from shore erosion.	No	No	No	Certified municipalities would manage "hazard areas" (those prone to coastal hazards) & the "impact areas" (those with adverse impacts on coastal waters). The state retains management of Lake Michigan area - its bed, waters & areas subject to wave attack.
(b) Water Quality Laws	Regulation of Rivers, Lakes & Streams, Ill. Rev. Stats. 19 §65 (1973).	Department of Transportation & Pollution Control Board	To issue permits authorizing the discharge or deposition of materials into public bodies of water.	Authority over all public waters of the state, including rivers, lakes, streams, bayous, sloughs, backwaters & submerged lands. The Pollution Control Board has authority over Lake Michigan.	Requires a permit for any activity which involves a discharge, deposition or construction in state waters.	Yes - a permit must be obtained before dredged material may be deposited in public waters.	No mention of federal activity.	Uses which cause water pollution are discouraged.	Yes	No	These restrictions do not apply to dredged materials of any reclamation or fill project of Lake Michigan under the authority of another statue, or under supervision of any park district if properly constructed.	The Department has authority to issue permits but local authorities must also approve the use of water for industrial or public utility purposes.
(c) Wild & Scenic River System Laws	Wild or Scenic Rivers, Ill. Rev. Stats. 105 §§492 & 493 (1967 amended 1969).	Department of Conservation	To develop a plan for establishing wild and scenic river areas.	Has no authority over any specific lands as yet.	No state policy has been created, but once established could constrain use in designated river areas.	No	No mention of federal exemptions.	Recreational uses will be encouraged when a state plan is developed.	No	No	No	The Department is authorized to cooperate with federal agencies in developing a plan for establishing wild & scenic river areas.
(d) Wild Lands Protection or Land Conservation Laws	Conservation District Act, Ill. Rev. Stats. 57.5 §§101 et seq. (1963, amended 1965 - 1971).	No state administrative agency. The Act authorizes the creation of local conservation districts.	Local districts have authority to adopt rules & regulations to manage & protect their property, acquire interests in land & to develop & preserve such land.	Each district has authority over land within the local jurisdiction of the district.	If the containment area is within land controlled by the District, it regulates the use of such land.	No	No mention of federal activity.	Uses which preserve & maintain wild land, open land & scenic roadways; or development which promotes the conservation of nature, flora, fauna, natural environment and resources of the district, are encouraged.	No	No	No	Local districts are to cooperate with the Illinois Nature Preserves Commission as to matters relating to this act.
	State Parks, Ill. Stats, 105 §§465 et seq. (1925, as amended through 1965).	Department of Conservation	To adopt rules & regulations for the use & care of state parks & nature preserves, to acquire areas for parks & designate land as nature preserves.	Authority over state-owned lands or land dedicated for nature preserves.	Once an area becomes a state park or a nature preserve nearly all uses are prohibited which would alter the natural conditions of the area.	No	No mention of federal exemptions.	Uses which preserve historic sites, scenic areas and nature preserves in their natural condition are encouraged.	No	No	Yes, but only if found to be of imperative public necessity.	The Department cooperates with local agencies, other states & the U.S. Government in the care and administration of local, national & interstate parks.
(e) Fish & Game Habitat Protection Laws	No pertinent laws found under this sub-category.											
(f) Environmental Impact Assessment Laws	No pertinent laws found under this sub-category.											
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	No pertinent laws found under this sub-category.											
(b) Public Land Laws Controlling State-Owned Lands or Submerged Lands	Regulation of Rivers, Lakes & Streams, Ill. Rev. Stat. 19 §71 (1973).	Department of Transportation	To prevent encroachments or other unauthorized uses in or upon lakes or rivers by requiring permits.	Authority over all lakes & rivers in the state.	Use of containment areas in or upon lakes & rivers is controlled by the state & a permit is required.	Dredging & filling are activities designated as requiring a permit.	No mention of federal activity.	Uses which interfere with navigation upon navigable rivers & lakes or that are capable of being made navigable are discouraged.	Yes	No	No	Local authorities must also secure a permit.
(c) Sediment or Erosion Control Laws	Soil & Water Conservation Districts Law, Ill. Codes, Agri. & Horti. 5 §§106 et seq. (1937, amended through 1972).	Department of Agriculture; local Soil & Water Conservation Districts	Local districts have authority to formulate regulations governing use of lands but must be enacted by the voters.	The Department has no authority over any land. The local conservation districts have authority over land within their districts.	Uses of land in containment areas must comply with the land-use regulations to conserve water & prevent erosion.	No	No mention of federal exemptions.	No specific uses are encouraged or discouraged by this act but uses which may cause soil erosion or sediment damage must comply with local regulations including engineering requirements.	No	No	No	The local conservation districts administer & enforce this law. Their regulations are submitted to the state agency - but it only has authority to express opinions on such.

ILLINOIS (Continued) Laws Directed at Land Use Control	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(d) Floodplain Protection Laws	Flood Plain Law, Ill. Rev. Stats. 19 §65f (1971, amended 1975).	Department of Transportation	To plan, develop & evaluate floodplain areas to provide for their preservation & to approve all construction in these areas.	Authority over floodplains in the state.	Land use in floodplain areas is controlled by the Department.	No	No mention of federal activity.	Uses which provide the most economic combination of retention storage, channel improvement & floodplain preservation are encouraged.	Yes	No	No	The Department considers local & regional planning & zoning requirements in defining floodplains.
(e) Agricultural Zoning Laws	No pertinent laws found under this sub-category.											
(f) Local Zoning Enabling Laws	Zoning & Planning Enabling Act, Ill. Rev. Stats. 24 & 34 (1961, as amended).	No state administrative agency; the Act enables local actions only.	Local agencies to divide areas into districts & to regulate uses within the district, including building requirements, open-space areas & lot sizes.	All land within local jurisdiction affected by this Act.	This Act gives local governments the authority to control uses of containment areas.	No	No mention of federal activity.	No specific uses are discouraged or encouraged by the act. Local governments have discretion in determining uses.	No	No	No	This Act enables local governments to zone & authorizes local advisory planning commissions to adopt development plans. No state authority mentioned.
(g) Port District Enabling Laws	Regional Port District Acts, Ill. Rev. Stats. 19 (1951 - 1969, as amended.	No state administrative agency; regional districts are created.	To adopt development plans, recommend improvements to port facilities & lease lands.	Authority over all land in County held by the District.	This Act enables the local districts to control the uses of containment areas.	No	No mention of federal activity.	No specific uses are discouraged or encouraged by the act. Local districts have discretion in determing port uses.	No	No	No	This Act enables local district to regulate port area. No state authority mentioned.
(h) Other Laws	Township Open Space Act, Ill. Rev. Stats. 139 §§321 et seq. (1975).	No state administrative agency. Act gives local Board of Town Auditors authority.	After the town voters have approved the open-space plan, the Board has the authority to acquire land for open-space purposes, administer & develop the uses of such & to dedicate certain open-space lands as nature preserves.	Authority over *open-space land* within the local township.	This Act gives the *local government* authority to control uses of containment areas in open-space lands.	No	No mention of federal activity.	Uses which preserve & maintain open land, *scenic roadways* & pathways & nature preserves in their natural condition are encouraged.	No	No	No	Local boards cooperate with other public authorities to acquire open-space land but the State Conservation Department must determine if the proposed use is worth the value of the land. The Boards also cooperate with the Illinois Nature Preserves Commission in maintaining nature preserves.
	Ill. Historic Preservation Act, Ill. Rev. Stats. 127 §§133d1 et seq. (1977).	Illinois Historic Sites Advisory Council, Department of Conservation	The Council recommends sites to be listed as Historic Places. The Department establishes the list of Historic Places, prepares a statewide preservation plan & must approve the demolition of Historic Places.	Authority over all land designated as Historic Places.	No historic feature may be demolished unless a Certificate of Compliance is granted.	No	No mention of federal exemption.	Uses that preserve Historic Places are encouraged.	Yes	Yes	Yes - if there is imminent threat to the public health or safety.	There is no mention of local interaction. State agencies may not use public funds in projects having adverse impact on Historic Places unless the Department approves.



LOUISIANA	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)
Laws Directed at Environmental Protection	Title of State Law and Code Section	Administrative Agency	Basic Authorities of Administrative Agency	Physical Area of Authority	Application of This Law to the Land Use of Containment Areas	Specific Mention of Dredge & Fill Activities	Exemption Provided for Corps Use	Types of Uses Encouraged and/or Discouraged by the Act	Requires Permits	Specific Permit Procedure	Allows Waivers or Variances	Interaction of This Act with Other State and/or Local Authority
Wetlands Protection Laws (include Shoreline or Coastal and Fresh Water Wetlands Laws)	State and Local Coastal Resources Management Act of 1976, Louisiana Revised Statutes Title 49 §§213.1 et seq. (1976).	Louisiana Coastal Commission	To develop a coastal zone management plan.	This act requires mapping of area to be controlled by subsequent acts.	The plan developed pursuant to this act will restrict land uses within the coastal zone.	No	No	This act requires a plan which will define the uses to be encouraged or discouraged.	No (To be required)	No	No	The plan is to be developed by the State Commission which will be comprised of many local representatives.
Laws Directed at Land Use Control												
Local Zoning Enabling Laws	Municipal zoning regulations, Louisiana Revised Statutes, Title 33, §§4721 et seq. (1926).	Local agencies	Allows local parishes to zone and regulate building construction and land use.	All municipalities are given authority over land within local jurisdiction.	Local zoning and building regulations directly control allowable uses within municipality jurisdiction.	No	No	No specific uses are directly discouraged or encouraged by the act. Local governments have discretion in determining uses.	Local ordinances will require building permits.	No	No	Legal jurisdictions are given primary authority over land use by this act. The exercise of this authority must conform to limits and procedural requirements by this act.



MARYLAND

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Coastal Wetlands Act, Annotated Codes of Maryland (ACM), Title 9 §§101 et seq. (1970).	Department of Natural Resources (DNR), Water Resources Administration (WRA)	To designate lands as wetlands & to develop rules governing the use of such lands & to require permits for such use.	Authority over state & private coastal wetlands which includes tidal & marsh lands.	Requires a permit for any activity not excluded by the statute in private wetlands. Use of a disposal area would be subject to the regulations under this act & a permit from the agency.	No	No mention of federal activity (Corps does not need a permit to dredge or fill under this act).	Uses of wetlands which entail conservation of soil, vegetation, water, fish, shellfish, & wildlife; hunting & fishing, and improving land bounding navigable waters to preserve access or protect shore from erosion are encouraged. "Destruction" of wetlands, defined as activities such as construction, agricultural activity, industry development, dredging & spoil disposal, public works, & solid waste disposal is restricted by this act.	Yes	Yes (regulations contain specific permit procedural steps).	No	Local agencies are consulted before a permit is issued but have no authority over state decisions.
	NOTE: Regulations under this act were obtained & are included in summary above.											
(b) Water Quality Laws	No pertinent laws found under this sub-category.											
(c) Wild & Scenic River System Laws	Wild & Scenic Rivers Law, ACM, Title 8 §§401-410 (1975).	DNR	To designate river segments as wild & scenic & to review & approve construction, diversion or impoundment proposals in or along the rivers. However, DNR authority is advisory only.	The DNR has some authority over designated rivers or segments under this act.	Anyone carrying out activities along a designated river must consider "scenic values" but the DNR has no real authority to regulate use other than for strip mining.	No	No mention of federal activity.	Uses which maintain scenic values are encouraged.	No	no	No	Local authorities are left regulatory authority over land use by this act; the state agency is advisory only.
(d) Wild Lands Protection or Land Conservation Laws	Wildlands Preservation System, ACM S-1201, Title 12 (1971).	DNR	To recommend areas to be included as state wildlands.	Authority over state-owned lands designated as wildlands.	Once an area is designated as wildlands the law prohibits nearly all uses which would alter the natural conditions of the area.	No	No mention of federal activity.	Recreational uses such as hunting & hiking are encouraged. Uses which alter the natural condition of the area are discouraged.	No	No	No	This act applies to state-owned land; local agencies have no authority over this land.
(e) Fish & Game Habitat Protection Laws	No pertinent laws found under this sub-category.											
(f) Environmental Impact Assessment Laws	Environmental Policy Act, ACM Title 3 §§1-301 (1974).	DNR	Requires the filing of an environmental impact report (EIR) on any project that could have a significant effect on the environment.	All state agencies must meet requirements of this act.	Would require the responsible lead agency to file an EIR if the activity was to have a significant impact.	No	No mention of any exemptions.	Not applicable; the EIR serves as an objective document to identify issues associated with the project.	An assessment is needed to determine if an EIR is necessary.	Yes, must meet DNR guidelines.	No	Local agencies to coordinate with DNR & other agencies which are involved.
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	State Planning, ACM Article 88c §§1-12 (1974).	Department of State Planning (DSP)	To prepare a state development plan, to participate in administrative or judicial proceedings concerning land use & to identify areas of critical state concern.	The DSP has no regulatory authority over any lands; it is a planning agency only.	The state land use plan & designated "critical" areas should be consulted before use is determined, this law gives the DSP no real authority to control uses.	No	No mention of federal activity.	Uses designated in the plan developed by the DSP would be encouraged.	No	No	No	Local agencies are left regulatory authority over land use by this act; the state agency is advisory only.
(b) Public Land Laws Controlling State Owned Lands or Submerged Lands	No pertinent laws found under this sub-category.											
(c) Sediment or Erosion Control Laws	Sediment Control Law, ACM Title 8 §§1101-1108 (1970).	DNR	To require county governments to develop ordinances directed at sediment control. Ordinances are to follow state guidelines & require permits for any grading or other ground-disturbance activities.	State authority over almost all construction activities on all land within the state.	Use which involves possible ground disturbance would require permits from the local soil conservation district.	No	No mention of federal activity.	No specific uses are directly discouraged or envisioned by the act but uses which entail extensive ground disturbance may indirectly be discouraged by the costs of sediment control.	Yes	No	No	Local soil control districts administer & enforce this law. Their regulations are dictated by state guidelines & the state agency monitors enforcement.
(d) Floodplain Protection Laws	No pertinent laws found under this sub-category.											
(e) Agricultural Zoning Laws	Md. Agricultural Land Preservation Foundation, ACM Title 5 §§2-501 (1975).	Maryland Agricultural Land Preservation Foundation (MALPF).	To designate lands for agricultural use only & establish easement procedures.	Authority over all lands that meet the requirements established by MALPF.	Would require the containment area become an agricultural preserve.	No	No mention of federal activity.	Specifically land use that would provide for agricultural products (food & fiber) would be encouraged.	Yes	Yes, must file an easement with MALPF.	No	MALPF would notify local & state agencies as to new easements granted.
(f) Local Zoning Enabling Laws	Md. Planning & Zoning Enabling Law, ACM (1970).	No state administrative agency; the act enables local actions only.	Local agencies to divide area into districts including sub-division regulations, and development activities on dedicated streets & in historical areas.	All land within local jurisdiction affected by this act.	This act gives local governments the authority to control uses of containment areas.	No	No mention of federal activity.	No specific uses are directly discouraged or envisioned by the act. Local governments are granted discretion in determining uses.	No	No	Local variances may be allowed.	This enables local governments to zone & requires planning before zoning. No state authority mentioned.
(g) Port District Enabling Laws	No pertinent laws found under this sub-category.											

MASSACHUSETTS

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Wetlands Protection Law, Ann. Laws of Mass. Ch. 131 §40 (1972).	Department of Environmental Management (DEM)	To require notification of local commissions and the Department of Natural Resources before wetlands are altered and to impose conditions on wetland development.	Authority over coastal wetlands including any bank, marsh, swamp or other land subject to tidal action & freshwater wetlands including land covered by surface or groundwater at least 5 mo./yr.	Dredge & fill activities or other activities that alter wetlands must be approved by DEM.	Applications must be filed and approved before filling of wetlands. If use was determined before filling, Commission approval would include proposed use.	No mention of federal activity.	Development in areas significant to water supply, flood control, storm damage protection, pollution prevention, shellfish protection & fisheries protection is subject to DNR restriction.	Yes	Yes	No	Local conservation commissions administer the applications appeals are handled by the DNR. The DNR may also review local decisions.
	Inland Wetlands & Flood Plain Protection, A.L.M. Ch. 131 as amended §40A (1968).	DEM	To restrict or prohibit dredging, filling, removing or other altering or pollution of inland wetlands. No obstructions or encroachments may be placed in flood-prone areas unless authorized by DEM.	Any marsh, meadow or swamp bounding inland water or that portion of any bank which touches any inland waters, or any marsh, meadow or swamp subject to flooding by fresh water.	Land use in inland & flood-prone areas is subject to DEM regulations.	Yes - dredging & filling activities are regulated & may be restricted in flood-prone areas & inland wetlands.	No	Uses that alter or pollute inland wetlands are restricted & obstructions or encroachments in waterways or flood-prone areas must be approved by DEM.	No	No	No	Local commissioners have authority to initially approve or disapprove land use restriction orders. However, if disapproved, DEM may approve such, after six months and due consideration of reasons for disapproval.
	Coastal Wetlands Protection, A.L.M. Ch. 130 as amended §105 (1965).	DEM	Identify unique wetlands ownership and bring into the coastal wetlands protective areas. Has power of eminent domain.	Coastal wetlands including any bank, marsh, swamp or land subject to tidal action or storm flowage plus contiguous land deemed necessary.	If DEM issues order restricting activties in coastal wetlands, land use of containment area must comply with restrictions.	Yes - dredging & filling are activities which may be restricted.	No mention of federal activity.	Sport & commercial fishing, hiking, boating, hunting, trapping, horseback riding, etc., & marine agriculture are encouraged.	No	No	No	Areas under municipal control are not affected by an order of DEM.
(b) Water Quality Laws	Compilation of water quality laws, M.G.L.A. Ch. 91 §§12-28 (1975, as amended).	Department of Public Works	To issue licenses prior to any construction of structures, filling or excavations in all state-wide rivers, ponds, outlets and Boston harbor; to supervise all construction; & make assessments for unapproved tidewater displacements.	Authority over all rivers & great ponds or any outlet thereof, below the high-water mark or over which the tide ebbs & flows; and over the Boston harbor.	Dredging, filling or any type of construction activity on state bodies of water must obtain a license.	No	No mention of federal activity.	Activities or erection of structures in or over state waters must be licensed by the Dept. of Public Works.	Yes	No	Waters in ponds may be lowered without prior permission in emergencies or for agricultural, manufacturing, mercantile, irrigation, insect control or public water supply purposes.	Local authorities must approve the construction of a bridge, except where otherwise required by law. As to any other activity requiring a license, local authorities are notified & given an opportunity to be heard.
(c) Wild & Scenic River System Laws	Scenic Rivers, M.G.L.A. Ch. 21 §17B (1971, amended 1973, 1975).	Commissioner of Environmental Management	To classify rivers for scenic or recreational purposes & adopt regulations restricting or prohibiting dredging, filling, removing or altering such rivers.	Rivers & streams of the state & up to 100 yds. on either side of bank.	The Commissioner has the authority to restrict or even prohibit activities on scenic or recreational rivers.	Yes - dredging, filling & removing are activities specifically mentioned in the act.	No mention of federal activity.	Uses which protect public and private property, wildlife, fisheries & wild, scenic & recreational rivers & streams are encouraged.	Yes	No	No	Orders of the Commissioner supercede any local actions; however, the Commissioner does not have the power to prohibit or restrict activities by other state agencies.
(d) Wild Lands Protection or Land Conservation Laws	Scenic Mountains Preservation, M.G.L.A. Ch. 131 §39A (1975).	Department of Environmental Management (DEM)	To approve local regulations restricting activity in mountainous regions.	The DEM has limited authority over local commissions, but none if a municipality declines to accept the act.	In municipalities which have accepted provisions of the act, activities which involve significant removal, fill, excavation or alteration of land may be prohibited.	No	No mention of federal activity.	Activities including the removal, filling, excavation or other land alteration likely to have significant adverse effect on watershed or scenic qualities of the area involving erosion, flooding or substantial changes in topography are discouraged.	Yes	Yes - if activity is found to be a regulated activity, local authorities may impose restrictions. If not a regulated activity no restrictions are imposed.	No	Local governments administer this act, appeals may be taken to DEM as to whether conditions should be imposed upon proposed activity.
	Conservation & Preservation Restrictions, M.G.L.A. Ch. 184 §§31-33 (1969, amended 1973-1976).	Secretary of Environmental Affairs (SEA), Mass. Historical Commission (MHC).	To approve conservation & preservation restrictions placed on land & to determine whether releases or continuances should be granted.	Authority over any land held by a city, commission authority or other instrumentality on which there is a restriction.	Anyone carrying out activity in a restricted area must first obtain a release from either SEA or MHC.	Yes - dredging & land fill activities may be forbidden or limited in "restricted areas."	No mention of federal activity.	Uses which preserve the land & water predominantly in their natural, scenic, or open condition or in agricultural, farming or forest use are encouraged. Activities involving construction, landfill, dumping or dredging, removal of surface vegetation or other detrimental uses, or alterations of existing structures, not historically appropriate to the site are discouraged.	No	No	Yes - if land is released from its restriction by the SEA or MHC.	State agencies have final authority over all restrictions. However, restrictions held by a charitable corporation or trust are also under the authority of the city mayor, manager, or council.
	Martha's Vineyard Protection, Ch. 637 as amended by Ch. 759 of the Acts of 1974 (1976).	Martha's Vineyard Commission	To designate districts of critical planning concern where development is restricted, approve developments having regional impact, & to acquire interests in land to protect its natural state.	Authority over Martha's Vineyard Island, off the south coast of Massachusetts.	Any activity or planned development in this area requires a permit.	Yes - dredging & land fill activities are activities requiring a permit.	No mention of federal activity.	Uses which preserve areas of critical planning concern & enhance the natural character of the land are encouraged. Developments which cause undue water, air, land or noise pollution & result in beach erosion or damage to wetlands are discouraged.	Yes	No		In districts of critical planning concern, local authorities may grant permits but the Commission must initially approve the regulations establishing criteria for issuing permits. Areas of regional impact are subject to final approval by the Commission after municipal approval.

MASSACHUSETTS (Continued)

Laws Directed at Environmental Protection	Title of State Law and Code Section	Administrative Agency	Basic Authorities of Administrative Agency	Physical Area of Authority	Application of This Law to the Land Use of Containment Areas	Specific Mention of Dredge & Fill Activities	Exemption Provided for Corps Use	Types of Uses Encouraged and/or Discouraged by the Act	Requires Permits	Specific Permit Procedure	Allows Waivers or Variances	Interaction of This Act with Other State and/or Local Authority
(e) Fish & Game Habitat Protection Laws	Protection of Fish in Inland Waters, M.G.L.A. Ch. 131 §42 (1967), amended 1975).	Division of Fish & Game	To prohibit killing fish, or the alteration of water flow or levels which may kill or injure fish; and to establish remuneration standards for the unlawful killing of such fish.	Authority extends to all inland waters of the state.	Use of containment area which alters the flow or water level creates liability to the state for damages.	No	Activities for engineering, construction, fish sampling & public welfare purposes done by federal, state or municipal authorities are not prohibited if the appropriate permit is obtained.	Activities which directly or indirectly injure or kill fish or fish spawn create liability for twice the damage done.	Yes	No	Activities related to the providing of water for public water purposes are not prohibited.	Remuneration is paid to the Division of Fisheries & Wildlife. No mention of local interaction.
(f) Environmental Impact Assessment Laws	Environmental Impact of Projects Law, M.G.L.A. Ch 30 §§61, 62 (1972, amended 1973, 1974).	Secretary of Environmental Affairs	To promulgate rules & regulations to carry out this act, and to approve environmental impact reports (EIRs).	All state agencies & political subdivisions must meet requirements of the act.	Would require the responsible agency to file an EIR if the work, project or activity may cause significant damage to the environment.	No	No mention of federal activity.	Not applicable; The EIR serves as an objective document to identify issues associated with the project.	No	No	No	Local agencies must also meet the requirements of the act.
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	No pertinent laws found under this sub-category.											
(b) Public Land Laws Controlling State-Owned Lands or Submerged Lands	Submerged Land Laws, M.G.L.A. Ch. 21 §§54-56 (1968, amended 1971).	Division of Mineral Resources, DNR	To adopt rules & regulations as to exploration and extraction of mineral resources, approve licenses & leases & establish charges for such.	Authority over the state coastal waters & the land thereunder.	A license is required for the exploration of mineral resources and a lease for the extraction of such mineral resources.	No	No mention of federal activity within state coastal waters.	Uses which are consistent with the harvesting & propagation of other natural resources are encouraged.	Yes	No	Yes - projects approved by the Dept. of Public Works.	Other state agencies assist in carrying out the various rules & regulations. Local authorities are consulted prior to the issuance of licenses or leases, or rule changes or amendments.
(c) Sediment or Erosion Control Laws	No pertinent laws found under this sub-category.											
(d) Floodplain Protection Laws	Massachusetts has enacted compacts with other states to control flooding in various river basins											
(e) Agricultural Zoning Laws	Assessment of Agricultural & Horticultural Land, M.G.L.A. Ch. 61A §§1-24 (1973, amended 1975, 1976).	Farmland Valuation Advisory Commission	To establish a range of values on a per-acre basis for each of the classifications of land in agricultural & horticultural use.	The Commission has no regulatory authority over any lands. Local boards of assessors approve land for special taxation.	Land valued for special taxation is subjected to additional roll-back taxes if land is conveyed or use is altered. Prior to conveyance, land must be offered to the city as a first option.	No	No mention of federal activity.	Land primarily and directly used for agricultural & horticultural use may receive special tax valuation.	No	No	No	Local Board of Assessors retain regulatory authority as to what land may receive the tax valuation.
(f) Local Zoning Enabling Laws	Anti-Snob Zoning, M.G.L.A. Ch. 40B §§20-23 (1969, amended 1975).	Housing Appeals Committee (HAC), of the Department of Community Affairs	To override local zoning boards & to issue building permits for low or moderate income housing.	The HAC has no authority over any lands; it hears appeals from decisions of local zoning boards.	When local building & zoning boards deny the building of low or moderate income housing in containment area, appeals may be taken to the HAC.	No	No mention of federal activity.	Land use that denies building permits to federal or state subsidized low or moderate income housing or makes construction uneconomical is discouraged.	Yes	No	No	The HAC in approving applications for building permits considers recommendations of local zoning boards.
	Historic Districts Act, M.G.L.A. Ch. 40C §§1-13 (1960).	Local Historic Districts Commissions (LHC), no state agency.	Each HDC has authority to issue certificates of appropriateness as to exterior features of structures in historic districts.	HDC's have authority over land designated as an historic district.	Anyone desiring to alter an existing structure or build a new one in an historic district must obtain HDC approval.	No	No mention of federal activity.	Uses which protect & preserve buildings, sites & districts of historic interest are encouraged.	Yes	No	Yes - if a substantial hardship would be borne by applicant, a certificate of hardship will be issued.	Prior to formation of a HDC, an historic district study committee may recommend certain buildings or sites be made an historic district. Such districts must then be approved by the city. No state authority mentioned.
	Zoning Enabling Act, Municipal Planning, M.G.L.A. Ch. 40A §§1-22, Ch. 41 §§81A-D, Ch. 141 §§81K-GG (1954, amended 1957-1969).	No state administrative agency; the act enables local actions only.	Local agencies to divide area into districts & to regulate uses within the districts including subdivision regulation, development activities, & floodplain control.	All lands within local jurisdiction affected by this act. City of Boston not included in this act.	This act gives local governments the authority to control uses of containment areas.	No	No mention of federal activity.	Local governments may designate use; no specific uses are mentioned.	Yes	No	Yes - if in harmony with the general purpose & intent of the ordinance.	This enables local governments to zone & requires planning before zoning. No state enforcement mentioned.
	Regional Planning Law M.G.L.A. Ch. 40B §§1-19 (1955, amended through 1975).	No state administrative agency; the act authorizes creation of district planning commissions.	To prepare a district plan for land use & make recommendations for improvements within the district.	All lands within local jurisdiction of cities & towns joined in a planning district.	This act gives districts the authority to control uses of containment areas.	No	No mention of federal activity.	This act encourages regional planning. No specific uses are mentioned.	No	No	No	This act enables local governments to establish planning districts to assist local planning boards.
(g) Port District Enabling Laws	Mass. Port Authority Law, M.G.L.A. Ch. 91 App. 1-1 - 1-4 (1956, amended through 1974).	Mass. Port Authority	To acquire property for its use, maintain port facilities under its control & establish rules & regulations for the use of such facilities.	Authority over all land designated as port property.	This act gives the Authority the control of uses of containment areas.	No	No mention of federal activity.	This act allows Port authority regulation of the uses encouraged or discouraged by state law.	No	No	No	This gives the Port Authority control over port lands.
	Port of Boston, M.G.L.A. Ch. 91A §§1-10 (1945, as amended).	Port of Boston Commission	The Commission has administrative charge of the port, including plans for developments, administration of all facilities & acquisition of land for the state.	Authority over all land designated as the Port of Boston.	This act gives the Commission the authority to control uses in containment areas.	No	No mention of federal activity.		No	No	No	This act gives the Port Commission administrative control over state-owned land in the Port of Boston. Final authority still rests with the state through the Governor.

MICHIGAN	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)
Laws Directed at Environmental Protection	Title of State Law and Code Section	Administrative Agency	Basic Authorities of Administrative Agency	Physical Area of Authority	Application of This Law to the Land Use of containment areas	Specific Mention of Dredge & Fill Activities	Exemption Provided for Corps Use	Types of Uses Encouraged and/or Discouraged by the Act	Requires Permits	Specific Permit Procedure	Allows Waivers or Variances	Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Inland Lakes & Streams Act, Public Act 346 (1972)*	Department of Natural Resources, (DNR), Hydrological Survey Division	To require a permit for activities in inland lakes & streams.	Authority over all lakes & streams except for the Great Lakes, Lake St. Clair & lakes of less than 5 acres.	Dredging & filling or use of state bottom lands is specifically regulated.	Uses of containment areas placed on state bottom lands would be subject to the permit.		Uses which cause destruction of fish or wildlife habitats or marshes, eliminate areas of water surface, interfere with lawful public use, or create a physical or aesthetic nuisance to riparian owners or the public are not favored.	Yes	Yes - in regulations and in guidelines.	No - but many exceptions to permit requirements exist in act.	This act is totally administered by the state.
	*Note: Regulations under this Act were obtained & included in summary.											
	Shorelands Protection & Management Act Mich. C.L.A. §§281.631 et seq. (1971).	Water Resources Commission	Preparation of shoreland use and management plans, promulgation & enforcement of rules, provide for specific remedies in case of violations.	Land in state which boarders or is adjacent to a Great Lake or connecting waterways & 1000 ft. landward.	This allows local agencies to restrict use of containment area in high-risk flood-risk or environmental areas.	No	No	Sound ecological & economical development of shorelands to prevent erosion, inundation, littering, blight harbor development & pollution are encouraged. Discouraged are uses which adversely affect any environmental area located within the Commission's physical jurisdiction.	No	No	No	Findings of the Commission are to be conveyed to requisite state and local agencies & officials. The act also specifically delegates several tasks to the DNR. Local agencies are to enact regulations, which must be approved by the Commission, on the use of high-risk & flood-risk areas.
(b) Water Quality Laws	No pertinent laws found under this sub-category.											
(c) Wild & Scenic River System Laws	Natural River Act, Mich. C.L.A. §§281.761 et seq. (1970)	NRC	To designate rivers as natural, prepare a plan for the rivers, and acquire land to preserve them in accordance with the plan or require local governments to adopt zoning ordinances consistent with the plan.	Authority over all rivers & river segments designated as natural.	Uses of containment area must comply with local zoning ordinances.	No	No mention of federal activity.	In the NRC's river plans, uses of the land may be encouraged, regulated or prohibited as to agriculture, forestry, recreation, residence, industry, & commerce including placement of structures, subdivision lines, location of roads & public utility lines, cutting timber, mining. & other uses.	No	No	No	Local governments may adopt zoning ordinances to regulate natural rivers, in accordance with NRC guidelines. If these are not satisfactory or the local government fails to enact such, NRC will enact its own ordinances.
(d) Wild Lands Protection or Land Conservation Laws	Wilderness & Natural Areas Act, Mich. C.L.A. §§322.751-322.762 (1972).	DNR	Propose and administer wild land areas for/and upon the recommendation of the Wilderness & Natural Areas Advisory Board & the Natural Resources Commission.	Authority exists over all state-owned lands designated as wilderness, wild or natural areas.	Once an area is dedicated as wilderness, wild, or natural, nearly all activities which would alter the natural condition of the area are prohibited.	No	No mention of federal exemptions.	Prohibited is removing or altering vegetation; any type of easement, mining exploration or extraction; commercial enterprises; utilities or roads (except as necessary), trapping or hunting.	No	No	No	The act applies to state-owned land; local agencies have no authority over this land.
(e) Fish & Game Habitat Protection Laws	Endangered Species Act, Mich. C.L.A. §§299.221-299.230 (1974	DNR	To compile a list of fish, plants & wildlife which are endangered & to establish programs for their protection, including the acquisition of land or aquatic habitat.	The DNR has authority over land it has acquired, plus land on which endangered species are located to the extent of preserving such.	Proposed DMCAs potentially harmful to endangered species would require a permit.	No	No mention of federal exemption.	Uses which remove or destroy endangered species of fish, plants, & wildlife, or species closely resembling such as to put them in danger are discouraged.	Yes	No	Yes - if the Department determines that the species abundance in the state justifies a controlled harvest.	The Department cooperates with federal, state & local agencies in compiling lists of endangered species.
(f) Environmental Impact Assessment Laws	No pertinent laws found under this sub-category.											
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	No pertinent laws found under this sub-category.											
(b) Public Land Laws Controlling State-Owned Lands or Submerged Lands	Great Lakes Submerged Lands Act, Act 247, Public Acts of 1955 as amended (1955).	DNR	To require a permit for activities in the Great Lakes.	Authority over all Great Lakes areas under state jurisdictions up to the ordinary high-water mark, including lands already artificially filled.	Yes - filled bottom lands are specifically regulated.	Any uses proposed for an area to be filled are subject to approval by the DNR.	No	The Department is to ensure that uses do not substantially impair the "public trust", specifically mentioned are public use for fishing, hunting, swimming, or pleasure boating or navigation.	Yes	Yes	No	This act is totally administered by the state.
(c) Sediment or Erosion Control	Soil Erosion & Sedimentation Control Act, Act 347, Public Acts of 1972 (1972).	DNR Water Resources Commission	To develop rules controlling sedimentation for almost all earth disturbing activies & to approve local ordinances which implement the Act.	Authority over almost all land in the state on which earth-disturbing activities are to occur except for logging, mining, or plowing for crop production.	Uses which involve ground disturbance would be subject to the rules designed to prevent sedimentation and to local permits.	No	No	Uses which involve extensive ground disturbance may be discouraged by the cost of compliance with rules established under this act.	Yes - where local authorities have an approved program.	Yes - in rules developed under this act.	No	Local agencies are primarily responsible for regulations & enforcement developed under this act. They are allowed by this act to set up sedimentation requirements at least as stringent as state guidelines.

MICHIGAN (Continued) Laws Directed at Land Use Control	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge and Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(d) Floodplain Protection Laws	No pertinent laws found under this sub-category.											
(e) Agricultural Zoning Laws	Farmland & Open Space Preservation Act, M.C.L.A. §§554.701-554.719 (1974, amended 1976).	State Land Use Agency of the DNR.	The State Agency or the local governing body has authority to approve lands for development rights agreements. After approved they have authority to regulate uses & development of such land & to determine whether the agreement may be terminated earlier than its natural termination date.	Authority over all farmland & open-space land approved for a development rights agreement.	This act gives the State Agency authority to control uses of containment areas.	No	No mention of federal activity.	Uses of land approved for a development rights agreement should be consistent with farm operations or toward preserving the land in its natural condition.	No	No	No	The application for the agreement is initially approved or rejected by the local governing body. This decision is then assessed by the state agency. The local & state tax commissions must approve the property's tax assessment.
(f) Local Zoning Enabling Laws	Mich. Planning, Housing & Zoning Enabling Law, M.C.L.A. Ch. 125 (1921), as amended through 1976).	No state administrative agency; the act enables local actions only.	Local agencies to divide area into districts & to regulate uses within the districts including development in dedicated streets & unincorporated areas, & blighted area rehabilitation. tation.	All land within local jurisdiction affected by this act.	This act gives local governments the authority to control uses of containment areas.	No	No mention of federal activity.	No specific uses are directly discouraged or encouraged by the act. Local governments are granted discretion in determining uses.	No	No	Local variances may be allowed.	This enables local governments to zone & requires planning before zoning. No state authority mentioned.
(g) Port District Enabling Laws	Mich. Port Districts Enabling Law, M.C.L.A. Ch. 120 (1925, as amended through 1968).	No state administrative agency; the act enables the creation of local port districts as corporate bodies.	To acquire, disperse & lease port property; to build, maintain & operate port facilities; regulate construction in navigable waters (subject also to state & federal control; to require that private facilities be maintained; & to adopt such rules & regulations as necessary to administer the port.	Authority over all land & naviqable water within local jurisdiction.	This act gives local port districts the authority to control uses of containment areas.	No	No mention of federal exemption, other than regarding federal jurisdiction of navigable waters.	This act gives local districts control over the uses encouraged or discouraged by them as related to port operations.	No	No	No	This enables local port districts to control & regulate uses of local harbor. The State Department of Commerce cooperates & negotiates with the various port districts & other government agencies in coordinating the operation & administration of port facilities.

MISSISSIPPI

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge and Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Coastal Wetlands Protection Law Miss. Laws Title 49, Ch. 27 (1973).	Marine Resources Council	To require a permit for filling activities in coastal wetlands.	Authority over coastal wetlands - all lands subject to tide below ordinary high water mark.	Regulated activities, including dredging, filling, killing or damaging any flora or fauna & the erection of structures materially affecting the ebb & flow of tide, require a permit.	Yes - dredging & filling are specifically regulated.	Wetlands to be developed by federal dredging for superport or pipeline buoy terminal are exempted.	The policy of this act is to preserve the natural state of coastal wetlands and as such discourages any use that will alter natural conditions unless the public benefit outweighs the alteration of the wetlands.	Yes	Yes	Yes	This act is administered by the state but several areas of coastal wetlands are left under local port authority jurisdiction.
(b) Water Quality Laws	No pertinent laws found under this sub-category.											
(c) Wild & Scenic River System Laws	No pertinent laws found under this sub-category.											
(d) Wild Lands Protection or Land Conservation Laws	No pertinent laws found under this sub-category.											
(e) Fish & Game Habitat Protection Laws	Fish, Game & Bird Protection & Refuges, Miss. Laws Title 49, Ch. 5 (1930, as amended through 1971).	State Land Commissioner, State Game & Fish Commission	The Land Commissioner has authority to lease state-owned lands for fish & game preserves. The Game & Fish Commission's authority extends to the adoption of rules & regulations to protect fish & game and to administer state forest reserves & wildlife refuges.	Authority over all state-owned fish & wildlife preserves & sanctuaries.	Any activity on sanctuaries or reserves which results in the destruction of fish & animal life may be prohibited.	No	No mention of federal exemption.	The purpose of this act is to preserve & protect fish & animal life. Uses which would adversely affect the animal life would be discouraged.	No	No	Yes - the state is free to sell timber or minerals on its land & to take or destroy bird or animal life as it deems necessary.	Local board of supervisors may add additional territory to any bird & game preserve or sanctuary, which is then subject to this act. The Fish & Game Commission cooperates with the Federal Government in enforcing regulations regarding wildlife, fish & game.
(f) Environmental Impact Assessment Laws	No pertinent laws found under this sub-category.											
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	No pertinent laws found under this sub-cateoory.											
(b) Public Land Laws Controlling State-Owned Lands or Submerged Lands	Leasing of Surface & Submerged Lands, Miss. Laws, §29-1-107 (1892, amended 1968).	Land Commissioner	To lease state lands to private individuals.	Authority over state-owned lands including that lying or adjacent to the Mississippi Sound, Gulf of Mexico or streams entering into such.	The state has authority over state-owned land; uses of containment areas must be approved by the state.	No	No mention of federal activity.	Land may not be leaded for hunting or fishing purposes. Constructions which obstruct navigation are also not allowed.	No	No	No	This law applies to state-owned land, local agencies have no authority over this land.
(c) Sediment or Erosion Control Laws	Soil & Water Conservation District Law, Title 27, Ch. 27 (1942, amended through 1974).	State Soil & Conservation Commission, Local Soil & Water Conservation Districts	The State Commission coordinates the programs of the local districts, assists them in developing soil & water conservation programs, and approves the creation & dissolution of such districts.	The State Commission has no authority over any land. The local districts have authority over land within the local jurisdiction.	Local district has the authority to regulate land use within its jurisdiction.	No	No mention of federal exemptions.	Uses which involve proper farming & cultivation practices & other soil conservation measures are encouraged. Improper land usage which causes breaking of natural cover & subsequent soil erosion is discouraged.	No	No	Yes - may seek a variance from strict compliance with land use regulations if would otherwise cause unnecessary hardship & not contrary to public interest.	Local soil & water conservation districts administer & enforce this act. Their regulations are established according to state guidelines. Agencies with jurisdiction over state-owned land within soil conservation districts are to cooperate as much as possible with local land use regulations.
(d) Floodplain Protection Laws	No pertinent laws found under this sub-category.											
(e) Agricultural Zoning Laws	No pertinent laws found under this sub-category.											
(f) Local Zoning Enabling Laws	Zoning, Planning & Subdivision Enabling Law, Miss. Laws, Title 17, Ch. 1 (1930, amended through 1975).	No state administrative agency; the act enables local actions only.	Local agencies to divide area into districts & to regulate uses within districts including subdivison regulation, development & building & dedication of public streets.	All land within local jurisdiction affected by this act.	This act gives local governments the authority to control uses of containment areas.	No	No mention of federal exemption.	No specific uses are directly discouraged or encouraged by the act. Local governments are granted discretion in determining uses.	No	No	Local variances may be allowed.	This act enables local governments to zone & requires planning before zoning. No state enforcement mentioned.
(g) Port District Enabling Laws	Miss. Port Districts Enabling Law, Miss. Laws, Title 59 (1930).	This act authorizes the creation of municipal and county port commissions.	To regulate port activities, maintain port facilities, lease or sell land and within its jurisdiction, & to reclaim local land.	Authority over all land within or adjacent to any river, bay or lake which is now or was below the mean high tide & is adjacent to the port or harbor within its local jurisdiction.	This act gives local commissions the authority to control uses of containment areas.	Yes - dredging is an activity mentioned as within local authority to reclaim land.	No mention of federal activity.	No specific uses are authorized, other than uses related to port activities	No	No	No	This act enables local governments to create a local port commissions. There is also a state commission which has no authority over the local commissions, but locals have the option of surrendering authority to the state.

NEW YORK

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Tidal Wetlands Protection Law, Codified Laws of N.Y., Art. 25 §§0101-0602 (1973).	Department of Environmental Conservation (DEC)	To develop land use regulations in tidal wetland areas.	Wetlands and 300 ft. landward or 10 ft. above mean sea level whichever is closer to tidal wetland boundary.	Any use within the tidal wetlands area is subject to a DEC permit.	Yes - filling is expressly included.	No	Purpose of this act is to prevent destruction of wetlands which includes such activities as construction, draining, dredging, excavation or filling or any other activity which may alter or destroy natural condition of the wetlands.	Yes	Yes	No	The DEC may cooperate with local governments in preserving local wetlands, including appropriating funds.
	Freshwater Wetlands Protection Act, Codified Laws of N.Y., Art. 24 §§0101-1303 (1975).	DEC	To regulate land uses in freshwater wetland areas.	Authority over wetland areas of 12.4 acres or more and areas within 100 ft. of vegetative boundary of each wetland.	All land use within the wetlands is subject to a permit from the DEC or local authority.	Yes - filling is specifically regulated.	No	Activities are restricted which would alter or destroy natural conditions in the wetlands.	Yes	Yes	No waivers but several exemptions are provided for.	Local governments may file to the DEC for authority to administer their own regulatory program. It must comply with state requirements.
(b) Water Quality Laws	Stream Protection Law, Codified Laws of N.Y., Art. 15 §§0501-0515 (1966).	DEC	To regulate filling activity in streams.	Freshwater streams or portions thereof that are classified by the DEC.	Land use on lands made from fill in a classified stream would be subject to a permit from the DEC.	Yes - filling is specifically regulated.	No	This restricts uses not determined to be in the "public interest" which is determined on a case-by-case basis.	Yes	Yes	No	This act is administered by the state through 9 regional offices and the DEC central office. The local governments have no authority under this act.
(c) Wild & Scenic River System Laws	Wild, Scenic & Recreational River System, Codified Laws of N.Y., Art. 15 §§2701-2723 (1972).	DEC	To designate river segments to be included in the system and to control use in and along the designated areas.	Rivers or river segments designated under the act.	Any use along a designated river is subject to regulation under this act.	No	No	In wild-river areas no uses allowed; in scenic areas existing agriculture, approved timber activities, and limited dispersed or clustered residential use allowed; in recreational areas all of above allowed & public recreational use.	No	No	No	The DEC is presently attempting to enforce the act through local land use laws and permitting.
(d) Wild Lands Protection or Land Conservation Laws	Protection of Natural & Man-made Beauty Law, Codified Laws of N.Y., Art. 49 §§0101-0111 (1972).	DEC	To designate scenic sites, areas & highways for preservation, conduct studies of these areas & to encourage local governments & interested persons to develop programs to preserve natural areas of the state.	Authority over state-owned lands designated as scenic.	No specific activity is prohibited. It is encouraged that land in the containment area be preserved to enhance its beauty.	No	No mention of federal activity.	The preservation & enhancement of scenic areas is encouraged. Littering, defacement & blighting of scenic sites, areas & highways is discouraged.	No	No	No	The DEC works with local governments to develop programs & projects to preserve & enhance natural and man-made beauty.
	Land Conservation, N.Y. State Constitution, Art. XIV §§1-4 (1938, as amended 1974).	State Legislature	To dedicate state land for forest, historic, or wildlife conservation; dictate public use of such land & to acquire additional land.	Authority over all state-owned lands.	Activity in state-designated areas is restricted so as to conserve its scenic beauty.	No	No mention of federal activity.	Uses which protect natural resources, scenic beauty, protect wetlands, shorelines, & water resources and which improve agricultural lands are encouraged.	No	no	No	This act applies to state-owned land, local agencies have no authority over this land.
(e) Fish & Game Habitat Protection Laws	Fish & Wildlife Law, Codified Laws of N.Y., Title 3, §§11-0303 - 11-0325 (1972).	DEC	To adopt rules & regulations to provide efficient management of fish & wildlife and to administer such rules.	The Department has authority over all public & private land in the state to the extent of fish & wildlife protection.	Activities in containment area which may destroy or disturb fish or wildlife may be prohibited by the Department.	No	No mention of federal activity.	Uses which preserve fish & wildlife resources, including all animal & plant life & the soil, water & atmospheric environment to the extent that it constitutes the habitat of fish & wildlife are encouraged.	No	No	No	The Department cooperates with other state & local agencies in the management of fish & wildlife resources.
(f) Environmental Impact Assessment Laws	Environmental Quality Review Law, Codified Laws of N.Y., Art. 8 §§0101-0115 (1976).	DEC	To review environmental impact statement (EIS). This act requires an EIS on any state or local action which may have significant impact on the environment.	All state & local agencies must meet the requirements of this act.	Land uses which are developed through the use of any state or local action, and which may have a significant environmental impact require an EIS.	No	No	This act requires assessment of possible environmental impacts & development of mitigation or alternative actions. No particular use is encouraged or discouraged by this law.	No	No	No	Local agencies are required to develop an EIS for actions which may have significant impacts. The DEC reviews projects but has no authority to stop local or other state actions.

NEW YORK (Continued) Laws Directed at Land Use Control	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) State Land Use and Land Use Planning Laws	Adirondack Park Agency, M.C.L.N.Y., Art. 27 §§800-819 (1971).	Adirondack Park Agency (APA), DEC	Requires a permit to build. Has adopted different requirements according to the land classification.	Authority over all land in the Adirondack Park area.	Land use in containment area must comply with the requirements APA.	No	No mention of federal activity.	Land is classified into 6 uses; (hamlet, moderate intensity, low intensity, rural use, resource management & industrial use), which restrict maximum development & protect forest preserves & open spaces.	Yes	Yes	No	Local government may impose its own land use controls if a particular area is not governed by the APA.
(b) Public Land Laws Controlling State Owned Lands or Submerged Lands	No pertinent laws found under this sub-category.											
(c) Sediment or Erosion Control Laws	Soil Conservation District Law, M.C.L.N.Y., Art. 1 §§3-9 (1976, amended 1977)	No state administrative agency; County Soil & Water Conservation Districts.	Requires the local district to prepare a soil conservation plan for all local farmers & to review it every five years.	Authority over land within local jurisdiction.	Requires that farmers with 25 or more acres request a conservation plan but there are no requirements that this plan be followed.	No	No mention of federal activity.	Uses designed to prevent erosion & sedimentation of agricultural land are encouraged.	No	No	No	This requires local districts to provide soil conservation plans to local farmers upon request. No state or local enforcement mentioned.
(d) Floodplain Protection Laws	Floodplain Protection Law, Codified Laws of N.Y., Art. 36 §§0103-0115 (1974).	DEC	To require flood-prone communities to develop local regulations limiting land uses in the flood-prone areas.	Authority over all flood-prone areas as designated by the Federal Housing & Urban Development Administration (HUD).	Land uses in floodplain areas are specifically regulated by local authorities.	No	No	Uses are restricted in floodplain areas according to local ordinances.	No	No	No	The state DEC assists local governments which have been designated by HUD. If local governments don't develop ordinances to minimize flood damage the state has authority to act in their place.
(e) Agricultural Zoning Laws	Agricultural District Law, Codified Laws of N.Y., Art. 25AA (1971).	DEC	To approve the creation of agricultural districts & to require districts be established if in an area furthering state environmental plans.	Authority over land which has been designated as an agricultural area.	Once an area has been designated as an agricultural district all non-farm uses are restricted.	No	No	All uses other than farm uses are discouraged.	No	No	No	This act allows local action to establish a district and the propcsal must be approved by the county government. The state may modify a request but the act is implemented and enforced locally.
(f) Local Zoning Enabling Laws	Local Land Use Authority, Codified Laws of N.Y., Art. 16 §§260-284 (1926).	Local authorities	This enables local municipalities to develop zoning laws.	Authority over land within municipal boundaries.	Land use restrictions established by local governments directly control use of containment areas within the jurisdiction of the municipality.	No	No	Each local ordinance establishes desired uses.	No	No	No	This act is completely administered by local authorities.
(g) Port District Enabling Laws	N.Y. Port Authority Enabling Law, M.C.L.N.Y., Title 17. §§6401 et seq. (1921, amended through 1972).	Port Authority of New York & New Jersey	To purchase, construct, lease or operate port facilities & to adopt such rules & regulations as necessary to implement such, & to develop comprehensive plans for port development.	Authority over all state-owned land in & about the bay of New York & Hudson River.	Authorizes the Port Authority to regulate uses of land within its jurisdiction.	No	The Port Authority is to request that the Corps assist in deepening & channel widening.	No specific uses are provided for — but uses in conformity with the development plan would certainly be encouraged.	No	No	No	The Port Authority cooperates with municipalities to effectuate development plans & with the State Highway Commissions so that truck highways are constructed in accordance with the port development plans.
(h) Other Laws	Acquisition of Open-space Lands Law, M.C.L.N.Y., Art. 13 §247	No state administrative agency.	Counties & municipalities to acquire open-space areas.	Authority over land within local jurisdiction.	Land within containment area may be subject to local regulations.	No	No mention of federal activity.	Uses designed to preserve open-space and farmland are encouraged.	No	No	No	This allows local governments to acquire open-space lands. No state authority mentioned.
	Forest Taxation, M.C.L.N.Y., Art. 4 §480-a (1977).	DEC, State Board of Equalization & Assessment, Local Assessors	Assessment of forest land & establishment of a stumpage tax designed to promote forest production. Also has authority to approve specific land for this assessment.	Authority over all land approved for the tax assessment.	If use of forest land is altered, owner must pay 5-year roll-back tax equal to difference would have been paid for alternate use.	No	No mention of federal activity.	In order to qualify for the special tax rate & remain under such, landowner must harvest timber & maintain forest according to recommended forestry practices.	Yes - land must be approved to receive tax assessment.	No	No	Local tax assessors assist in determining average tax value.
	Environmental Conservation Laws, M.C.L.N.Y., Art. 47 §§0101-0115, Art. 12F §§239x-y	No state administrative agency, County Environmental Management Councils & Municipal Environmental Conservation Commissions	Both types of bodies to act as advisors to the local legislative bodies concerning natural resource protection. In addition, county councils must prepare a plan for the protection of the county's environment.	Authority over all land within local jurisdiction.	This law gives the agencies no real authority to control uses but advises legislative bodies to enact such.	No	No mention of federal activity.	Uses encouraged or discouraged by agencies are likely to be enacted into regulations within the local jurisdiction.	No	Not	No	This enables local governments to investigate & adopt ways to preserve the environment & natural resources. No state authority mentioned.

NORTH CAROLINA

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Coastal Area Management Act, N.C. Codes, Art. 7, Ch. 113A §§100 et seq. (1973).	Coastal Resources Commission, Department of Natural & Economic Resources	State authorized to adopt guidelines for the development of land use plans to be established by local governments within the coastal area.	Authority over land bounded by Atlantic Ocean & extending offshore to limit of state jurisdiction & coastal sounds extending inland to the normal seawater encroachment on a tributary river.	Local or state agencies control uses of containment areas in coastal areas & permit is required for development activity.	Dredging & filling are development activities requiring a permit.	No mention of federal activity.	Uses which preserve wetlands, sand dunes, beaches, water, scenic vistas, fish & wildlife; a development plan which provides for economic development, recreation & transportation in an orderly & balanced fashion are encouraged.	Yes	No	Yes - variances may be allowed if unnecessary hardship would result from conditions peculiar to the property which could not have been anticipated.	Local land use plans must be consistent with the state guidelines. Permits issued by local governments must also be consistent with state guidelines. If a local government decides not to adopt its own plan, the area & permit issuance are under the authority of the state.
	Permits to dredge in estuaries & state-owned lakes, N.C. Codes, Art. 17, Ch. 113 §§229, 230 (1969, amended 1975).	Department of Natural & Economic Resources	To issue permits for dredging & filling activities & to adopt regulations for dealing with such activities.	Authority over all estuarine waters, tidelands, marshlands or state-owned lakes.	Excavation & filling projects must obtain a permit.	Yes - this act deals with dredging & filling activities.	Yes	Uses discouraged are those having a significant adverse effect on use of water by public; value or enjoyment of property; public health, safety & welfare; conservation of water supplies; & wildlife or fisheries.	Yes	No	Yes - a special emergency permit is granted when life or structural property is in imminent danger.	After permit is obtained from the state, another permit is still necessary from the Corps for work in navigable waters.
(b) Water Quality Laws	No pertinent law found under this sub-category.											
(c) Wild & Scenic River System Laws	Natural & Scenic Rivers Act, N.C. Codes, Art. 3, Ch. 113A §30 et seq. (1971, amended 1973).	Department of Natural & Economic Resources	To administer the natural & scenic rivers system, establish regulations for carrying out the provisions under this act, & recommend areas to be included within the system.	Authority over rivers or segments designated as natural or scenic, in which the state has acquired an interest.	Anyone carrying out activities along designated rivers shall comply with stated regulations restricting the land use.	No	No mention of federal exemption.	Uses which maintain a continuous water flow & an established water quality level to preserve natural & scenic rivers are encouraged.	No	No	No	The Department of Administration is authorized to acquire additional land for inclusion within the system. No local interaction is mentioned.
(d) Wild Lands Protection or Land Conservation Laws	N.C. Land Conservancy Corporation, N.C. Codes, Art. 8, Ch. 113A §§135-149 (1973).	North Carolina Land Conservancy Corporation (NCLCC)	This is a state body authorized to acquire land for the state so that it can be preserved. It is also to help in the preservation of these areas.	The NCLCC has no real authority over the land it acquires; it is primarily a land acquisition body.	Land acquired by NCLCC becomes state land & uses may be limited by other state agencies.	No	No mention of federal activity.	No specific uses are directly encouraged or discouraged by this act but land is acquired so that the state may develop lands in their natural & unaltered condition.	No	No	No	This act applies to state-owned land. Local agencies have no authority over this land.
(e) Fish & Game Habitat Protection Laws	No pertinent laws found under this sub-category.											
(f) Environmental Impact Assessment Laws	No pertinent laws found under this sub-category.											
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	Land Policy Act, N.C. Codes, Art. 9, Ch. 113A, §§150-159 (1974).	Land Policy Council, Advisory Committee on Land Policy	These are two advisory agencies established to prepare a state land policy & a state land classification system, to identify areas of environmental concern & land use projects with regional impact and to help coordinate state & local land use programs.	The agencies have no regulatory authority over any lands; they are planning & coordinating agencies only.	The state land policy & land classification system if enacted by the legislature would regulate land use, but until enacted the state agencies have no authority to regulate land use.	No	No mention of federal activity.	Uses designated in the plan developed would be encouraged or discouraged.	No	No	No	Local agencies are left regulatory authority over land use by this act until the state legislature adopts a state land policy.
(b) Public Land Laws Controlling State-Owned Lands or Submerged Lands	State Land Law, N.C. Codes, Ch. 146, §6(1959).	Department of Administration	To grant easements or permits to fill areas of state submerged land.	State authority over all submerged land or land raised above the high-water mark by an act of man.	Land use of containment area is controlled by the state.	Yes	No mention of federal exemption.	No specific land uses encouraged or discouraged by this law except that proposed fill must not impede navigation or the use of navigable water.	Yes	No	No	This act applies to state-owned land; local agencies have no authority over this land.
(c) Sediment or Erosion Control Laws	Sedimentation Pollution Control Act, N.C. Codes, Art. 4, Ch. 113A §§50-71 (1973).	Sedimentation Control Commission, Department of Natural & Economic Resources	To adopt & administer a state erosion & sedimentation control program which requires permits for land-disturbing activities. Local governments may establish their own program in accordance with state guidelines.	State authority over almost all land-disturbing activities on all land within the state.	Uses which involve land disturbance would require permits from local soil & water conservation districts or the Department.	No	No mention of federal activity.	No specific uses are directly encouraged or discouraged by the act but land-disturbing activities must meet requirements for grading slopes & revegetation & civil penalties may be substantial for noncompliance.	Yes	No	No	Local governments may administer their own programs but such must be approved by the Commission & must be in accordance with the state plan.
(d) Floodplain Protection Laws	Floodway Regulation, N.C. Codes, Ch. 143, §§215.51-215.62 (1971, amended 1973).	Environmental Management Commission, Department of Natural & Economic Resources	The state agencies have authority to designate areas as within the floodway; to advise local governments in controlling uses; & to advise local governments as to plans & regulations.	The state has no regulatory authority over any land. After it designates floodways, local governments control uses in accordance with the guidelines of this act.	Permit required for construction activities is floodway unless activity is specifically exempted.	No	No mention of federal exemptions.	Uses which create artificial obstructions which may be swept downstream during a flood or that may back up or divert water are discouraged.	Yes	No	Yes - Certain activities need no permit, including farming, port & commercial uses, recreational uses, streets & public utility uses, boat docks & piers & dams.	Local governments administer this act. State agencies are advisory only.

NORTH CAROLINA (Continued) Laws Directed at Land Use Control	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(e) Agricultural Zoning Laws	Agricultural, Horticultural & Forestland, N.C. Codes, Ch. 105 §§277.2-277.7 (1973, amended 1975).	Department of Revenue, local tax supervisors.	The Department adopts rules & regulations to assist tax supervisors in administering this act. Tax supervisors approve land applications to be included within this act, and appraise property at its present use value.	Authority over land with local jurisdiction.		No	No mention of federal activity.	Land is taxed at its present-use value for agricultural, horticultural or forest land, if such is less than its value for other uses	Yes - land must be approved for the special tax.	No	No	Local authorities administer this act. The Department of Revenue issues regulations to insure uniformity of appraisals.
(f) Local Zoning Enabling Laws	Zoning & Planning Laws, N.C. Codes, Ch. 153A §§321 et seq., Ch. 160A §§360 et seq. (1945, amended through 1973).	No state administrative agency, act enables local actions.	Local agencies to divide area into districts & to regulate uses within the districts, including subdivision regulation, dedication for recreational use & historic properties preservation.	All land within local jurisdiction affected by this act.	This act gives local governments the authority to control uses of containment areas.	No	No mention of federal activity.	No specific uses are directly encouraged or discouraged.	No	No	Local variances may be allowed.	This enables local governments to zone & requires planning before zoning. No state enforcement mentioned.
(g) Port District Enabling Laws	Port Authority Enabling Law, N.C. Codes, Art. 22, Ch. 143, §§216 et seq. (1945, amended through 1975).	State Ports Authority	To acquire & dispose of port property, develop & maintain port facilities & adopt rules & regulations to administer this act. May not engage in shipbuilding.	Authority over all harbors & seaports in the state owned or under control of the Authority & including the waters & shores & all streams flowing into such harbors & streams in which tide ebbs & flows & the outer edge of outer bar of harbor.	Port Authority has the power to control uses of containment areas.	No	No mention of federal exemption.	Uses relating to port activites are encouraged.	No	No	No	This act applies to state-owned land; local agencies have no authority over this land.
(h) Other Laws	Acquisition of Open Space, N.C. Codes, Ch. 160A §§401-410 (1963, amended 1971).	No state administrative agency.	This act authorizes cities & counties to use public funds to acquire open-space lands.	Authority over land acquired for open-space purposes.	Uses of containment areas may be restricted by local government to uses preserving the land's natural state.	No	No mention of federal activity.	Uses which preserve open spaces for recreation, land & natural resources conservation & historic or scenic purposes are encouraged.	No	No	No	No state regulation; local authorities regulate use of open-space land, subject to conditions imposed in granting public funds.

AD-A063 905 SCIENCE APPLICATIONS INC LA JOLLA CA ENVIRONMENTAL S--ETC F/G 13/12
EVALUATION OF LAWS AND REGULATIONS IMPACTING THE LAND USE OF DR--ETC(U)
SEP 78 J COLE, M BRAINARD DACW39-77-C-0026

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OREGON

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (Include Shoreline or Coastal and Freshwater Wetlands Laws)	Coastal Zones, Ore. Rev. Stats. (ORS) §§191.110 et seq. (1971).*	Oregon Coastal Conservation & Development Commission (OCCDC), & Land Conservation & Development Commission (LCDC)	To prepare a comprehensive plan for the preservation & protection of the coastal zone including a list of priorities of uses. LCDC is responsible for implementing the plan & must approve all local plans, permits & licenses for consistency with the plan.	Coastal zone includes the entire coast between the Wash. & Calif. boundaries, seaward to the extent of state jurisdiction, inland to coastal mountain range, plus the Umpqua, Rogue & Columbia River Basins.	Uses of containment area must conform with the State Coastal Management Plan.	Yes. Local & state plans are to provide for sites to dispose of dredged material in areas causing the least adverse impact or where the effects can be mitigated.	No. The State Coastal Management Program provides that Corp activities must comply with the state program.	A list of priorities is established for use of shorelands & estuaries, beginning with uses which maintain the areas; water-dependent uses; water-related uses; non-dependent & non-related uses which do not alter the area; (or committed uses); & finally non-dependent & non-related uses causing a long-term change in the areas.	No	No	No	The OCCDC plan was developed in conjunction with the LCDC state-wide goals in land use planning. Both OCDDC & LCDC require local governments to adopt plans, zoning & subdivision ordinances in conformity with the state plans. LCDC must review & approve any plans developed by OCCDC.
	*NOTE: Included in the summary is the Coastal Management Program.											
	Ocean Shores; State Recreation Areas, ORS §§390.605-390.760 (1967, amended 1969).	Department of Transportation, State Highway Engineer	Over ocean shores & state recreation areas including authority to acquire additional land; requires permits for improvements, removal of materials & laying pipelines & cables.	Authority over ocean shores within the state between ordinary high tide & extreme low tide, plus adjacent state recreation areas.	A permit is required for improvements or to remove sand & gravel from ocean shores.	No	No mention of federal activity.	Recreational uses; uses which preserve scenic qualities are encouraged.	Yes	Yes	No	The State Land Board has jurisdiction with respect to submerged lands. This act applies to state-owned lands, local agencies have no authority over these lands.
(b) Water Quality Laws	No pertinent laws found under this sub-category.											
(c) Wild & Scenic River System Laws	Scenic Waterways, ORS §§390.805-390.925 (1971, amended 1973).	Department of Transportation	To administer the waterways in accordance with this act, to adopt rules & regulations to manage such, to require prior approval of all land uses in adjacent related areas & to acquire scenic easements in adjacent areas if necessary to preserve them.	Authority over all designated waterways & their related adjacent land.	Use of containment area must be in harmony with the area's natural beauty unless other uses are approved.	Any dredging or filling activity must be approved by the State Land Board.	No mention of federal activity.	Recreational, fish, & wildlife uses are encouraged. Dams or other water impoundments which alter a river's free-flowing condition are discouraged as well as uses which alter its scenic qualities.	Yes	No	No	The Department works in cooperation with other state agencies in preserving scenic waterways. No local enforcement is mentioned.
(d) Wild Lands Protection or Land Conservation Laws	Natural Areas Preserves, ORS §§273.562-273.597 (1973).	State Land Board	To include state lands in natural preserves, to manage them & to adopt such rules & regulations as necessary.	Authority over all state-owned lands included in natural area preserves.	Nearly all uses of land in natural area preserves are restricted unless found to be in the best interests of the state.	No	No mention of federal activity.	Uses of land which preserve it in its natural state are encouraged.	No	No	No	This act applies to state-owned land, local agencies have no authority over this land.
(e) Fish & Game Habitat Protection Laws	No pertinent laws found under this sub-category.											
(f) Environmental Impact Assessment Laws	No pertinent laws found under this sub-category.											
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	Oregon Land Use Act, ORS §§197.005-197.430 (1973, amended 1975).*	LCDC	To establish state-wide planning goals & guidelines, prepare model zoning & subdivision ordinances, review regional & local plans to insure conformance with state-wide goals, recommend to legislature areas of critical state concern & issue permits for activities of state-wide significance.	The LCDC has no direct regulatory authority over land but local & regional governments must adopt comprehensive plans & ordinances in conformity with LCDC state-wide goals & planning guidelines.	Land use of containment area must comply with state land use controls.	Yes. Local state & federal agencies are to develop plans for the disposal of dredged material. Encouraged is disposal in uplands or ocean waters & only in estuary waters if adverse effects are mitigated or the area restored.	The Corps is not specifically mentioned but federal agencies are to adopt plans for dredging & the disposal of such materials.	The state goals and guidelines provide for citizen involvement in planning; land use planning; preservation of agricultural, forest, open-space, scenic & historic lands; preservation of natural resources including air, water, & land; protection from natural disasters; recreational needs; a diversified economy; housing; public facilities & services; transportation; energy conservation of estuarine resources, coastal shorelands, beaches & dunes, & ocean resources. Local & regional governments must comply with state guidelines in these areas.	Yes	Yes - the application is initially reviewed by the local governing body with final approval from the LCDC.	No	Local & regional agencies are left most of the regulatory authority but local regulations must conform with the state plan & LCDC has final approval of activities of state-wide significance.
	*NOTE: Included in the summary are the state-wide planning goals & guidelines.											

OREGON (Continued)

Laws Directed at Land Use Control	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(b) Public Land Laws Controlling State-Owned Lands or Submerged Lands	Removal of Material; Filling, ORS §§41.605-541.695 (1967, amended 1971, 1973).	Division of State Lands	To issue permits for dredging & filling activities to adopt rules & regulations as to the issuance of such permits.	Authority over beds & banks of all water of the state including lakes, streams, rivers & the Pacific Ocean.	A permit is required for dredging & filling activities.	This applies to the removal or filling of state-owned land.	Yes - activities of the Corps do not require a state permit to dredge or fill if accomplished to improve navigation.	Activities which interfere with public navigation, fishing, & recreational uses are discouraged.	Yes	Yes - permit procedure outlined in regulations.	A permit is not required for the Corps to fill forest lands or for activities associated with dam construction or other water divisions authorized by State Engineer.	This act applies to state-owned lands; local agencies must also obtain a permit.
	NOTE: Regulations under this act were obtained & are included in summary above.											
	Laws on Removing Material from Submerged Land, ORS §§274.525-274.590 (1961, as amended).	Division of State Lands	To lease land for a royalty based on a price per cubic yard or ton of material removed.	Authority over all submerged & submersible lands of navigable water owned by the state.	A royalty must be paid to remove material if not removed for uses encouraged in (H) or is thereafter sold as an article of commerce.	Yes, if containment area is sold, a royalty is attached for the material removed.	No mention of federal exemption.	Material removed for channel or harbor improvement or flood control or used for filling, diking; or reclaiming land located 1/2 mile from stream-bank or up to 2 miles if land owned by the state or a political subdivision, if not later sold, is exempted from paying a royalty on such material.	No	No	Material may be removed without a lease if used for channel or harbor improvement, or reclaiming of land within a certain distance from stream-bank if it is not later sold, or if less than 50 cu. yds. taken.	This act applies to state-owned land; local agencies have no authority over this land.
(c) Sediment or Erosion Control Laws	Soil & Water Conservation, ORS, §§568.210 et seq. (as amended 1975).	State Soil & Water Conservation Commission	To encourage but not require the formation of local districts & then to approve their projects & land use regulations.	Authority over all land within local districts.	Land use in containment areas must comply with local land use regulations.	No	No mention of federal activity.	Uses which permit soil erosion, control floods, conserve water & water quality, prevent impairment of dams, maintain navigability, including provisions for gully control, cultural & cropping practices are encouraged.	No	No	No	Local districts administer this act. Although local areas are not required to form districts, once so formed & approved by the state, the state must approve all local projects & regulations.
(d) Floodplain Protection Laws	No pertinent laws found under this sub-category.											
(e) Agricultural Zoning Laws	Agricultural Land Use, ORS §§215.203-215.273 (as amended 1973).	No state administrative agency; this act enables local actions only.	County governing bodies authorized to create farm use zones in which non-farm uses may be restricted.	Authority over all land within local county zoned for farm use.	Uses of containment area must be consistent with farm uses, or a compatible non-farm use.	No	No mention of federal activity.	Land zoned for farm use must be used for such activity or a compatible non-farm use including schools & churches, forestry, farm buildings, mining & related mineral processing, parks & other uses that do not materially alter the overall land use pattern of the area.	No	No	No	Local governments administer this law. No state authority is mentioned.
(f) Local Zoning Enabling Laws	Local Planning & Zoning Enabling Laws, ORS Ch. 215 & 227 (as amended 1975).	No state administrative agency; this act enables local actions only.	Counties & municipalities are authorized to form planning commissions to advise government of zoning ordinances, land-use plans & subdivision regulations.	Authority over land within local jurisdiction.	Uses of containment areas must comply with local regulations.	No	No mention of federal activity.	Uses which conform with the comprehensive plan and further the goals of the State Land Use Act are encouraged.	No	No	Local variances may be allowed.	This enables local government to zone, before which planning may be done. No state authority mentioned.
(g) Port District Enabling Laws	Port Enabling Law, ORS Ch. 777 (as amended 1971).	No state administrative agency; this act enables local ports	Local ports have authority to administer port property, to acquire additional land, & to construct & maintain such buildings & improvements as deemed necessary.	To the extent that state might exercise control, local ports are granted authority over all bays, rivers & harbors within local jurisdiction.	Uses of containment area must comply with local port restrictions.	No	No mention of federal exemption.	Uses consistent with port-related activities is encouraged.	No	No	No	Local ports administer this law. No state authority is mentioned.
(h) Other Laws	Open-Space Lands, ORS §§308.740-308.790 (1971).	No state administrative body; local governments administer this act.	To approve local open-space land for special tax rate, to ensure that the land is used properly, & to assess penalties for improper changes in use of the land.	Authority over all land receiving the open-space assessment within local jurisdiction.	Uses of containment areas not consistent with the open-space use would create liability for past taxes plus a possible additional 20% penalty.	No	No mention of federal activity.	Uses of open-space land that conserve natural & scenic resources; protect streams & air; conserve soil, wetlands, landscaped & historic sites; & promote orderly urban development are encouraged.	Land must be approved for the assessment.	Yes	No	Local governments administer this law. No state authority is mentioned.

TEXAS

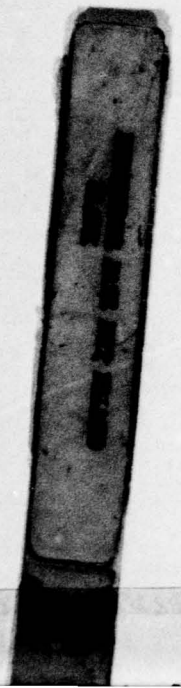
Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procecure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Texas Coastal Waterway Act of 1975, Article 5415e-2, Texas Statutes (1975).	State Highway Commission	To cooperate with Department of the Army and all other state and Federal agencies, navigation districts, port authorities, counties, and persons in compliance with Federal local sponsorship of the Gulf Intra-Coastal Waterway.	Main channel of the shallow draft navigation channel that extends from the Sabine River southward to the Brownsville Ship Channel near Port Isabel.	The Commission, as acting agent for the State of Texas, is empowered to coordinate the designation and acquisition of containment areas, but this agency does not control land uses.	Yes	Not Applicable	Uses which allow navigation in Texas' coastal waters and yet minimize adverse environmental effects and maintain wildlife and fisheries are encouraged.	No	No	No	The Commission coordinates its activities with all Federal, state, and local agencies concerned.
	Coastal Public Lands Management Act of 1973, Article 5414e-1, V.A.C.S. (1973).* *Note: Regulations under this act were obtained and are included in the summary.	School Land Board	Develop a Public Lands Management Program, hold public hearings, regulate construction of structures on public lands and acquire coastal area lands for preservation and controlled public use.	The surface estate of coastal public lands includes state-owned submerged lands, waters overlying these lands, and all state-owned or partially-owned islands.	Uses of containment areas are restricted to those uses allowed by the state. A permit or easement is required.	No	No	Uses that benefit the public at large as opposed to uses which benefit only a few individuals are encouraged.	Yes	Yes - procedure outlined in regulations.	No	Staff members of the General Land Office, including the Planning Division, are empowered to aid the Board in the discharge of its duties.
(b) Water Quality Laws	No pertinent laws found under this sub-category.											
(c) Wild & Scenic River System Laws	No pertinent laws found under this sub-category.											
(d) Wild Lands Protection or Land Conservation Laws	No pertinent laws found under this sub-category.											
(e) Fish & Game Habitat Protection Laws	No pertinent laws found under this sub-category.											
(f) Environmental Impact Assessment Laws	No pertinent laws found under this sub-category.											
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	No pertinent laws found under this sub-category.											
(b) Public Land Laws Controlling State-Owned Lands or Submerged Lands	Excavation from Gulf Coast and Public Beaches, Article 5414g, Texas Statutes (1969, amended 1975).	Commissions Court of Local Counties	The courts are given authority to issue permits to take sand, marl, gravel, or shell from public beaches.	Authority over any beach area, extending inland from mean low tide to the line of vegetation bordering on Gulf of Mexico.	Local governments have no authority to regulate if activity is done by state or Federal government	No	Yes - this act does not apply to Federal or state agencies.	No permit is issued to dredge land owned by the state. No permit is issued if it would endanger lives or property or create hazardous conditions.	Yes	No	Land owners may take from their own land and place on another part of their land.	This act is administered by local governments. No state authority is mentioned.
	Lease or Sale of State-Owned Lands or Flats, Texas Water Code, §61.116, 61.117 (1973).* *Note: Regulations under this act were obtained and are included in the summary.	School Land Board	Board is authorized to lease or sell state submerged lands to navigation districts but retains all mineral, oil, & gas rights.	Authority over all state-owned lands and flats.	Uses of containment area must be approved by the district and the Board and must be for navigation purposes.	Yes, navigation districts may lease lands to be used by the Corps.	No	Lands acquired from state must be used for navigation purposes.	Yes	Yes - regulations outline procedure and if required, a Federal environmental impact statement must be filed.	No	Local districts are allowed to lease state lands but the proposed uses must be approved by the School Land Board.
(c) Sediment or Erosion Control Laws	State Soil Conservation Law, Article 165a-4, Texas Stats. (1939, amended through 1975).	State Soil Conservation Board	Soil and water conservation districts are authorized to carry on engineering operations, devise methods of cultivation, vegetation, and implement changes in established land uses.	Extends to all state-owned and controlled lands, and to other lands with consent of occupiers.	Adoption of land use regulations by district supervisors could adversely affect present uses of containment areas.	No	No	Uses which would effectively aid in the control and stabilization of lands susceptible to soil and water erosion are encouraged.	No	No	No	All state and local political subdivisions possessing jurisdiction over lands located within the designated districts are encouraged to cooperate with district supervisors.
(d) Floodplain Protection Laws	Flood Insurance Law, Article 1581e-1, Texas Statutes (1969).	No state administrative agency; local Commissioner's Courts administer.	To determine flood prone areas & to enact and enforce regulations which control or restrict uses of such areas.	Areas subject to flooding which border the Gulf of Mexico or tidewater areas such as bays, lagoons, lakes, and inlets.	Land use of containment areas could be regulated for purposes of flood damage protection.	No	No	The Act does not identify particular types of uses encouraged or discouraged.	No	No	No	This act is administered by local governments. No state authority is mentioned.
(e) Agricultural Zoning Laws	No pertinent laws were found under this sub-category.											
(f) Local Zoning Enabling Laws	Local Zoning Enabling Law, Article 1011a, Texas Statutes (1959, originally 1927).	The Legislative Bodies of Cities and Incorporated Villages, and Zoning Commissions.	To regulate development of land areas; place restrictions on building size & location; and determine land uses.	Authority over designated zoning districts.	Uses of containment areas could be regulated by zoning restrictions.	No	No	Uses in conformity with the comprehensive plan are encouraged.	No	No	No Mention	The Zoning Commission of any particular district will determine district boundaries and suggest regulations to be adopted by local legislative bodies.
(g) Port District Enabling Laws	Port Facilities Enabling Law, Chapter 61, Texas State Water Code (1971).	No state administrative agency, allows cities to develop and operate port facilities.	To develop and operate port facilities, to construct and maintain canals and waterways and to acquire additional land as needed.	Authority over land within local jurisdiction.	Uses of containment area could be regulated by local restrictions.	No	No	This act allows local control over uses of port land.	No	No	No	This Act enables local government to regulate local ports and waterways. No state authority is mentioned.

VIRGINIA

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (Include Shoreline or Coastal and Freshwater Wetlands Laws)	Va. Wetlands Law, Ch. 62.1-12.1 et seq. Va. Stats. (1972).	Virginia Marine Resources Commission, local Wetlands Boards.	To assist cities, towns & counties in the regulation of wetland areas & promulgate guidelines that evaluate wetland areas & their use. The act does not specify whether the state can require local wetland control. The state will process permits for certain activities until city, county or town adopts a zoning ordinance.	Authority over all wetland areas in State of Va. Wetlands are areas of land bordering the mean low water & an elevation above the low water mark equal to a factor 1.5 times the mean tide range at the site of a proposed project of a city, county or town in question & where various types of marshgrasses proliferate.	Requires a permit for any activity not excluded by the statute in private wetlands, use of a disposal area would be subject to the guidelines promulgated & permit issued by the Wetlands Board.	No	No	Uses encouraged by the act are noncommercial recreational activities such as swimming, hiking, boating, shooting in preserves & horseback riding. Uses which would cause destruction & despoliation of wetland areas are discouraged.	Yes	Yes - ordinance listed in the act describes steps one must follow to obtain a permit.	No	The Commission assists counties towns, & cities in wetlands regulation.
(b) Water Quality Laws	No pertinent laws found under this sub-category.											
(c) Wild & Scenic River System Laws	Scenic Rivers Act, Ch. 15 §10-167 et seq. Va. Stats. (1970).	Commission of Outdoor Recreation	To study and make recommendations to the Governor & General Assembly as to the desiomation of particular scenic rivers or parts thereof. Once a river is designated as scenic, the General Assembly may restrict uses & will appoint a state agency to administer.	Rivers & parts thereof which possess natural or scenic values in the state.	Uses which impede the natural flow or detract from its scenic qualities would be restricted but the Commission has no authority yet to do so.	No	No mention of federal activity.	Uses which maintain scenic values would be encouraged.	No	No	No	No interaction between state & local agencies is mentioned in the act.
(d) Wild Lands Protection or Land Conservation Laws	No pertinent laws found under this sub-category.											
(e) Fish & Game Habitat Protection Laws	No pertinent laws found under this sub-category.											
(f) Environmental Impact Assessment Laws	Environmental Impact Reports of State Agencies, Ch. 1.8 §10-17, 107 Va. Stats. (1977, originally 1973).	Council on the Environment	To review impact assessments & submit a statement to the governor discussing environmental impact of proposed state project.	All state agencies, boards, authorities, & commissions or any branch of state government must meet the requirements of the act.	Any state agency proposing to develop a project in a containment area the development of which might significantly affect the environment must file an EIR.	No	No mention of federal activity.	Not applicable, the EIR serves to identify issues associated with a particular project.	No	The act enumerates the criteria to be included in an EIR.	No	The act requires all state agencies & their subdivisions to cooperate with the Commission. The act makes no mention of local governments responsibility.
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	Va. Critical Environmental Areas Law, Ch. 18 §10-187 Va. Stats. (1972).	Division of State Planning and Community Affairs	To establish guidelines for delineation of critical areas & establish standards for controlling development & use of such areas. The Division has no authority to regulate land use until approval is given by General Assembly.	The Division acts primarily as a planning agency that provides the Governor & General Assembly with recommendations as to which areas should be designated & preserved.	The act gives the Division no real authority to control uses.	No	No mention of federal activity.	Uses which preserve & protect land areas of scenic, natural, or historic values are encouraged.	No	No	No	The Division in fulfilling its duties under the act, consults with local governmental units.
(b) Public Land Law Controlling State Owned Lands or Submerged Lands	No pertinent laws found under this sub-category.											
(c) Sediment or Erosion Control Laws	Erosion & Sediment Control Law, Art 6.1 §21-81.1, Va. Stats. (1973).	Virginia Soil and Water Conservation Commission	To establish minimum standards & guidelines for local districts to use in adopting regulations to administer this act.	The Commission's authority encompasses the entire commonwealth.	Uses of containment areas would have to be consistent with local regulations restricting land use.	No	No mention of federal activity.	Uses consistent with adopted sediment & erosion control standards are encouraged.	Yes	Yes - before any land disturbing activity may commence in a district that has adopted sediment & erosion control laws, approval of the activity & the methods to be employed to prevent erosive damage must be obtained.	No	The Commission is obligated to cooperate with all federal & state agencies regarding plans for sediment & erosion control. Local governments must adopt regulations consistent with the commonwealth guidelines.

VIRGINIA

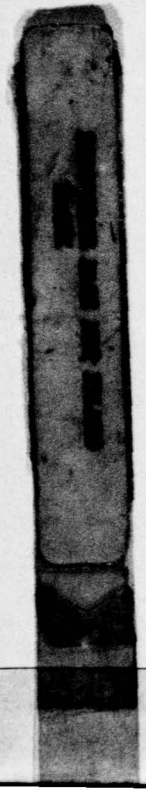
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(d) Floodplain Protection Laws	Flood Damage Reduction Act, §62.1-44.108 et seq. Va. Stats. (1977).	State Water Control Board	To aid local political subdivisions in the required preparation & adoption of flood control measures; to coordinate flood & floodplain management information, & encourage federal submission of flood damage reduction data.	No actual authority over any land.	Uses of containment areas could be regulated once regulations have been adopted for purposes of flood damage management.	No	Not Applicable	Uses which would aid in management of flood-prone areas are encouraged. Uses which would derogate effective floodplain control measures would be discouraged.	No	No	No	The purpose of the Board is to coordinate state & local efforts to formulate guidelines & management programs in compliance with the Federal Flood Insurance Act of 1968.
(e) Agricultural Zoning Laws	No pertinent laws found under this sub-category.											
(f) Local Zoning Enabling Laws	Zoning Ordinances Generally, Art. 8 §15.1-486 et seq. Va. Stats. (1975).	The governing body of a county or municipality.	To adopt by ordinance zoning specifications which regulate land use & development.	Any & all territory under jurisdiction of the municipality or county.	Uses of containment areas would be subject to regulation by adopted zoning ordinances.	No	No mention of federal activity.	Uses consistent with land use plans adopted are encouraged.	No	No mention of a permit application process in the act.	No	The authority to adopt zoning ordinances relates to local political units only. No state & local interaction exists.
(g) Port District Enabling Laws	Va. Port Authority Law, Ch. 10 §62.1-128, Va. Stats. (1970, originally 1950).	Board of Commissioners of the Virginia Port Authority.	To administer development of port facilities including but not limited to seaports, harbors, watercraft, & terminal facilities.	All navigable tidal waters & water terminals in the state.	Land use of containment areas could be regulated or restricted if located in the Virginia Port Authority jurisdiction.	No	No specific mention of federal activity.	Uses that would foster growth & controlled development of port facilities state-wide are encouraged. Uses that would harm port authority growth, management, & consolidation are discouraged.	No	No	No	The Commission is encouraged to cooperate with cities & towns that desire to manage port facilities within their jurisdictions.
(h) Other Laws	No pertinent laws found under this sub-category.											



WASHINGTON

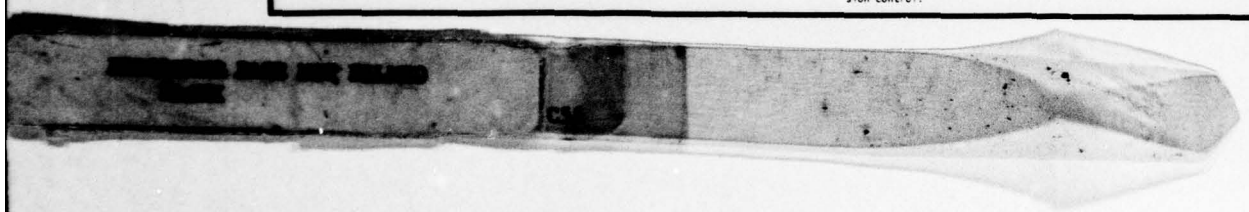
Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Shoreline Management Act, Revised Codes of Wash., Ch. 90.58 (1971).	Department of Ecology (DOE)	To insure local compliance with the requirements of this act which requires local regulation of shoreline uses.	Authority over all state shorelines & associated wetlands. Wetlands include area 200 ft. from high water mark & marshes, bogs, swamps & deltas (special provisions apply to designated areas of "statewide significance").	This requires local governments to develop master plans for use of shorelines; once the master plans are approved they regulate allowable uses in shoreline areas.	No, but dredging & filling are considered types of development controlled by the act.	No. This act specifically requires the DOE to represent state interests before the Corps.	Uses are encouraged which preserve the natural character, result in long- vs. short-term benefit, protect the resources & ecology, increase public access & increase recreational opportunities.	Yes - the act requires a local permit system subject to state review.	Yes	No	The local governments are required to develop plans, permit systems & methods of enforcement. The state gives financial aid and technical guidance & if the locals refuse to act, the state acts in their stead.
	Tidelands, Shorelnads & Harbor Areas Law, Revised Codes of Wash., Ch. 79.16 (1893, as amended).	Department of Natural Resources (DNR); Commissioner of Public Lands (CPL).	The DNR has authority to acquire additional lands for public highway & recreational uses. CPL authorized to issue permit for excavations of waterways. Must approve all construction activities and lease beds of navigable waters.	Authority over designated wetlands in the state.	DNCAs activities in wetlands require a permit or approval of the CPL.	No - but excavations in waterways & the removal of material from navigable waters are regulated by this act.	No mention of Federal exemption.	Certain tidelands are designated public highways to be used for recreational purposes only they are never to be sold, disposed of, or leased.	Yes - must obtain permit from CPL & also from Corp if activity is in navigable waters.	Yes	No	Local governments may be consulted but the state retains ultimate authority. Other state agencies assist in enforcing provisions of this act.
(b) Water Quality Laws	No pertinent laws found under this sub-category.											
(c) Wild & Scenic River System Laws	No pertinent laws found under this sub-category.											
(d) Wild Lands Protection or Land Conservation Laws	Natural Area Preserves, Revised Codes of Wash., Ch. 79.70 (1972).	DNR	To acquire lands for natural areas & adopt rules & regulations for the management, protection & use of such areas.	Authority over all state-owned lands designated as natural preserves.	Land uses in a natural preserve must comply with use requirements of the DNR.	No	No mention of federal activity.	Uses which preserve land in its natural state are encouraged.	No	No	No	This act applies to state-owned land; local agencies have no authority over this land. A Wash. State Natural Preserves Advisory Committee assists the DNR in carrying out this act.
(e) Fish & Game Habitat Protection Laws	Fish Conservation Law, Revised Codes of Wash., Ch. 75.20 (1955, amended through 1975).	Department of Fisheries and Department of Game	To restrict construction of dams in Columbia River fish sanctuary; requires permit to divert water or any other activity altering flow or bed of rivers or streams.	Authority over rivers & streams in the Columbia River fish sanctuary or any river or stream of the state.	Activities that use, divert, obstruct or change natural flow or bed of river or stream must be authorized by the Departments.	No	No mention of federal activity.	Uses which divert, obstruct or change natural flow or bed of any river or stream which may affect fish life are discouraged.	Yes	No	Yes - in emergency situations an immediate oral permit can be granted.	Act specifies that other government agencies must comply with the provisions of this act. Does not specify if this includes federal agencies.
(f) Environmental Impact Assessment Laws	State Environmental Policy Act, Revised Codes of Wash., Ch. 43.21C (1971, amended 1974).	DOE	Determine categories of governmental actions which significantly affect the environment & classes exempt from filing; as well as procedures for preparing "detailed statements".	All state & local agencies must meet the requirements of this act.	Requires the responsible officer to file a "detailed statement" if the activity is to significantly affect the environment.	No	No mention of federal exemption.	Not applicable. The "detailed statement" serves as objective document to identify issues associated with the project.	Need an assessment to determine if detailed statement is needed.	Must meet Department guidelines.	Yes - certain activities may be exempted - DOE has authority to determine.	All state & local agencies must comply with this act.
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	No pertinent laws found under this sub-category.											
(b) Public Land Laws Controlling State-Owned Lands or Submerged Lands	Material Removed for Channel or Harbor Improvement or Flood Control-Use for Public Purposes, Revised Code of Wash., §79.01-79.178 (1965).	DNR	To control the use of dredged material.	Authority over all material on state water bottoms.	This law specifies the priority of uses for material taken from state water bottoms. It directly controls the initial disposal of material and specifies a "public" use as first priority.	Yes	No. The law specifically controls the use the Corps can make of the material.	The law specifies use on a publicly-owned site for public purposes as first-priority use, but allows deposit on private land for public purposes if no public site is available. A change is required for material used in any other way.	DNR permission or approval for use of material must be obtained.	No	No	Local authorities have no control over the priority of uses specified by this act. This material is owned by the state.
	Harbors & Tide Waters, Constitution of Wash., Art. 15 §1 (1931).	Harbor Line Commission	To locate & establish harbor lines in all navigable waters or to relocate such.	Authority over all land & navigable water as established within the harbor lines.	Land within this area must comply with established uses.	No	No mention of federal activity.	Uses of harbors are reserved for landings, wharves, streets & other conveniences of navigation & commerce. The state may not give, sell or lease any rights to this area.	No	No	No	This act applies to state-owned land & is not subject to local regulations.

WASHINGTON (Continued) Laws Directed at Land Use Control	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(N) Interaction of This Act with Other State and/or Local Authority
(c) Sediment or Erosion Control Laws	No pertinent laws found under this sub-category.											
(d) Floodplain Protection Laws	Flood Control Laws, Revised Code of Wash., Title 86 (1935, amended through 1973).	DOE	Authority to require permits for any type of of construction or improvement which might cause damage from flood water.	Authority over navigable & non-navigable waters within the state.	Activity within flood zone must meet state specifications.	No	The state assumes full regulatory control subject to federal control over navigation.	Uses which affect stream flow or create conditions which will cause damage during flooding are discouraged.	Yes	No	No	Local governments are free to establish flood control districts also.
(e) Agricultural Zoning Laws	No pertinent laws found under this sub-category.											
(f) Local Zoning Enabling Laws	Wash. Planning & Zoning Enabling Act, Revised Code of Wash., Titles 35A & 36 (1963-1969).	No state administrative agency; act enables local actions only.	Counties & cities are authorized to prepare a comprehensive development plan, after which they may adopt zoning maps & subdivision regulations.	All land within local jurisdiction affected by this act.	This act gives local governments the authority to control uses of containment areas.	No	No mention of federal activity.	This act allows local governments to regulate land uses within local jurisdiction.	No	No	Local variances may be allowed.	This act requires local governments to develop a plan, which if approved, would allow for zoning. No state enforcement mentioned.
(g) Port District Enabling Laws	Port District Enabling Law, Revised Codes of Wash., Ch. 53 (as amended through 1975).	Wash. Public Ports Association; local Port District Commissions	The state agency coordinates the activities of the districts, which are authorized to acquire, sell, construct, maintain, operate, develop & regulate all port facilities, including improvement of navigable & non-navigable waters, & to adopt a harbor improvement plan.	Districts have authority over all lands within local jurisdiction.	This act gives local district the authority to control uses of containment area.	No	No mention of federal exemption.	This act allows local port commissions to control uses within local jurisdiction, including port-related activities & park & recreation facilities.	No	Not	No	This enables local districts to regulate harbors & requires planning before improvements are made. The state agency serves as a coordinating agency.



WISCONSIN

Laws Directed at Environmental Protection	(A) Title of State Law and Code Section	(B) Administrative Agency	(C) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	(H) Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(a) Wetlands Protection Laws (include Shoreline or Coastal and Freshwater Wetlands Laws)	Water Resources Act, Wisc. Stat. Ch. 614, Wisc. Shoreline Management Program, Natural Resources, Ch. 115, (1965, 1970).	Department of Natural Resources (DNR)	To enforce the requirements of these acts; which provide local protection of shorelands. These acts establish some minimum standards that locals must follow. DNR has authority to zone in unincorporated areas.	Authority over all state shorelands in unincorporated areas which are lands within 1000 ft. of navigable lakes, ponds, or flowage & within 300 ft. of a river or navigable stream or to the landward side of the floodplain, whichever is greater.	This Act requires county governments to develop land use zoning regulations which protect shorelands & that comply with state criteria. The state criteria puts specific minimum requirements on land use.	Yes - dredging & filling must conform to state law.	No mention of federal activity.	The Act requires the following: minimum lot sizes - 10,000 square ft. with sewers, 20,000 without sewers. Building setbacks at 75 ft. from normal highwater line. No building on floodway; filling & dredging allowed only in accord with state law. Tree and shrubbery cutting is also restricted. A county review is required for all land divisions which create 3 or more parcels of 5 acres or less within a 5-year period.	Yes - county governments must set up permit system.	No	Yes, allows local variances	The Act directs local action and local enforcement efforts to manage shorelands in a manner that preserves water quality and aesthetic concerns.
(b) Water Quality Laws	No pertinent laws found under this sub-category.											
(c) Wild & Scenic River System Laws	Wild Rivers Law, §30.26, Wisconsin Statutes (1969).	DNR	To develop a management program for the preservation, protection, and enhancement of rivers. After consulting with state and local agencies, it will implement land use restrictions to accomplish the objectives of the program.	Rivers or river systems designated by legislative enactment.	Land use of containment areas could be restricted if located near a designated wild river.	No	No specific mention of federal activity.	Uses consistent with policies and objectives of the management program are encouraged.	No	No	No	The Department is required to seek cooperation from state and local governments in carrying out its management program.
(d) Wild Lands Protection or Land Conservation Laws	Conservation Act, §23.09, Wisconsin Statutes (1923, amended through 1976).	DNR	To promulgate rules for the efficient management of lands designated as fish and game refuges and state forest and park recreational areas.	All lands of the state that serve the purpose of the Act, which is to provide a flexible system for the protection of state natural resources.	Land use within designated areas would be regulated to serve the purpose of the Act.	No	No mention of federal activity.	Uses which would preserve and protect natural resources of the state and allow public recreational benefit are encouraged.	No	No	No	The Department is required to cooperate with state and local governments who desire similar objectives.
(e) Fish & Game Habitat Protection Laws	The Land Conservation Law listed above includes within its statutory framework provisions which would enable the Department of Natural Resources to preserve and protect fish and game habitats; see Conservation Act, §23.09 (12)b.											
(f) Environmental Impact Assessment Laws	Governmental Consideration of Environmental Impact, §1.11, Wisconsin Statutes (1974).	The Governor, DNR	The act specifically does not provide for state authority. Regulations pursuant to Act may set guidelines for filing a "detailed statement" (DS); as well as listing actions which require a DS.	All projects which might significantly affect the environment.	Would require the responsible agency to file an EIR if an activity might significantly affect the environment.	No	No	Not applicable, all state agencies are required to submit a detailed statement (DS) to the Governor. Public hearings are held for all proposals except for legislation.	No	No	No	The agency responsible for filing a DS should consult an agency with special expertise with respect to the environmental impact involved.
Laws Directed at Land Use Control												
(a) State Land Use and Land Use Planning Laws	No pertinent laws found under this sub-category.											
(b) Public Land Laws Controlling State-Owned Lands or Submerged Lands	Submerged Land Laws, §§30.12, 30.19, 30.20, Wisconsin Statutes	DNR	Authorized to approve projects to place structures or dredged material in navigable waters.	Authority over all navigable streams, lakes, or other navigable bodies of water within the state.	A permit is required to place structures in navigable waters or to dredge and fill.	Yes	No mention of federal exemptions.	Uses that do not injure fish and game habitats, cause environmental pollution and conform to other land use and water quality laws are encouraged.	Yes	Yes	No	This act applies to state-owned lands; local agencies have no authority over this land.
(c) Sediment or Erosion Control Laws	Soil and Water Conservation District Law, §92.01, Wisconsin Statutes (1961, originally 1937).	The Soil Conservation Board and District Supervisors	To adopt rules and guidelines for effective management of erosion control operations and controlled land use of state-owned lands.	All state-owned lands and private lands with occupiers permission.	With the adoption of land use regulations, use of containment areas could be regulated for purposes of sediment and erosion control.	No	No mention of federal activity.	Uses which would prevent flooding, preserve natural resources, and aid in agricultural development are encouraged. Uses which would increase the risk of sediment and erosion damage are discouraged.	No	No	No	The District Supervisors cooperate and make agreements with any and all agencies or private parties in order to furnish effective erosion prevention operations.



WISCONSIN (Continued)

Laws Directed at Land Use Control	(A) Title of State Law and Code Section	(B) Administrative Agency	(D) Basic Authorities of Administrative Agency	(D) Physical Area of Authority	(E) Application of This Law to the Land Use of Containment Areas	(F) Specific Mention of Dredge & Fill Activities	(G) Exemption Provided for Corps Use	Types of Uses Encouraged and/or Discouraged by the Act	(I) Requires Permits	(J) Specific Permit Procedure	(K) Allows Waivers or Variances	(L) Interaction of This Act with Other State and/or Local Authority
(d) Floodplain Protection Laws	Floodplain Zoning Law, §87.30, Wisconsin Statutes (1965, amended through 1976).	DNR	To adopt floodplain zoning ordinances for any city, county, or village that fails to adopt such ordinances by January 1, 1968.	All areas of the state that fail to pass floodplain zoning ordinances by January 1, 1968.	Land uses of containment areas might have to conform to requirements enumerated in ordinances adopted by the DNR.	No	No specific mention of federal activity.	Uses encouraged or discouraged are not identified in the Act. But uses raising the flood level or which do not mitigate against flood damage will be restricted.	No	No	No	Any ordinances adopted by the Department can be modified or changed if Department approval is obtained. Cities, counties, and villages can adopt more restrictive ordinances.
(e) Agricultural Zoning Laws	No pertinent laws found under this sub-category.											
(f) Local Zoning Enabling Laws	Local Zoning Power, §§59.97, 60.74, Misc. Statutes (1974, originally 1947).	County and town zoning boards.	To adopt zoning ordinances with which to regulate land use and development within designated districts.	The area within a county not included within incorporated cities and villages, and areas located within the jurisdiction of a town.	Land uses of containment areas would be subject to regulations adopted pursuant to zoning ordinances enacted.	No	No specific mention of federal activity.	Uses which would promote land use most suitable to the natural character of land and its adaptability, and provide healthy family surroundings are encouraged.	No	No	No	The Act provides for the adoption of zoning ordinances by local governments. There is no mention of state-local interaction.
(g) Port District Enabling Laws	Development and Operation of Harbors, Wisconsin Statutes, §§30.30, Harbors and Navigation (1959).	No state administrative agency; this Act enables local boards of harbor commissioners.	Local governments are authorized to administer local harbors, including making improvements, maintaining shore protection walls and acquiring land as necessary to do such.	Authority over local harbors within local jurisdiction.	Local governments have the authority to regulate harbor improvements.	No	No mention of federal activity.	Uses designed to improve navigation and shores and existing harbor facilities are encouraged	No	No	No	This Act enables local governments to control local harbors; no state authority mentioned.



APPENDIX D: LETTER OF REQUEST SENT TO CITIES, COUNTIES, AND PORT DISTRICTS

Subject: Productive Uses

Dear Sir:

The Environmental Effects Laboratory, of the United States Army Engineer Waterways Experiment Station at Vicksburg, Mississippi, is conducting for the Chief of the Army Corps of Engineers a comprehensive, nationwide research program on the uses of dredged material and on the productive uses of the new filled acreage resulting from such disposal. Pressures to increase confined disposal of dredged material have risen significantly in recent years. These pressures demonstrate a need to examine land use alternatives; therefore, Science Applications, Inc., under Contract No. DACW 39-77-C-0026, is engaged in obtaining and in analyzing the laws and regulations that influence the productive uses of landfills created from dredged material (i.e., dredged material containment areas). The result of this study will provide the Corps of Engineers and other planners with a greater understanding of, and a ready reference to, the laws and regulations relevant to the implementation of land use projects. The product from this project will provide new insights into finding workable solutions from studying laws, regulations and uses that are effective in selected jurisdictions. The results are to form the basis for constructing a proposed model law to address the placing of filled land into productive use.

We are seeking your assistance in obtaining copies of the laws, regulations, orders, agreements and ordinances which affect (i.e., constrain or encourage) the productive use of dredge filled containment areas. For example, an ordinance may limit the character of the activity that may be undertaken upon such filled land, or it may place height restrictions on structures to be built because of foundation requirements. There may be many constraints or incentives (enhancements) affecting the resultant use of this land area.

Below is a list of subject areas which may be covered by your laws and regulations. This list is not meant to be exclusive. Please indicate by checking the applicable column, whether you have laws and regulations of that nature and whether you are providing SAI with a copy. Additional space has been provided to list subject areas specifically addressed under your legislative scheme. Please include provisions which constrain along with those which encourage the productive use of this filled land area.

Because of the limited scope of this project and because they are the subject of other studies, laws and regulations regarding the control of noise pollution, air pollution and water pollution are not to be included in this study.

Please use the enclosure as your return transmittal letter. We seek your comments regarding alternatives and solutions to land use problems as they relate to the productive use of land created from dredged material containment areas. Please take into consideration laws and regulations which in any way affect your ability to place this land into productive uses.

When there is any charge for copies of the requested materials, please call SAI collect to indicate the amount; a check or voucher will be sent to cover such costs.

We greatly appreciate your cooperation regarding our study. We thank you for your time and consideration.

Respectfully,

Don Macdonald
Environmental Systems Division
Legal Systems Group
Science Applications, Inc.
(714) 459-0211 Ext. 200

DM:evm

Subject Areas	Provision Operative In Jurisdiction	Forwarding Copy to SAI
Borrowing pit permit		
Building permit		
Conditional use permit		
Encroachment permit		
Excavation permit		
Flood plain permit		
Grading permit		
Height limitation zone variance		
Land conservation permit		
Land development permit		
Nonconforming use permit		
Open space easement		
Septic tank permit		
Sewer service work order		
Setback change ordinance and special use permit		

Other Subject Areas covered by Provisions Operative in Your Jurisdiction	Provision Operative in Jurisdiction	Forwarding Copy to SAI

NAME: _____ DATE: _____

TO: Science Applications, Inc.
Environmental Systems Division
Legal Systems Group
1200 Prospect Street
P. O. Box 2351
La Jolla, California 92038

FROM: NAME: _____

ADDRESS: _____

_____

TELEPHONE #: _____

Enclosed are copies of those portions of our laws, regulations, orders, agreements and ordinances (as appropriate) which have an effect upon our selection of uses to be made of land created from dredged material. The enclosed copies contain examples of incentives and constraints affecting the productive uses that can be made of new land created from dredge filled containment areas.

Law/Regulation	Affect on Uses of Sites Created from Dredged Material Containment

COMMENTS:

APPENDIX E: CITY AND COUNTY LAND USE CONSTRAINTS MATRIX

Situs	Zoning Regulations	Building Ordinances	Others
California			
Long Beach	Area takes on restrictions of adjacent zone	Building permits are a requirement of the building ordinance	California Coastal Commission under C.C.Z.C.A. oversees issuance of permits
Los Angeles	The use of the area must comply with area zoning ordinances.	Building code establishes conditions for receiving building permit on fill soil, plus other foundation requirements (City of L.A. Building Code Div. 28, Div. 30)	
San Diego	Coastal Development Overlay Zone covers projects done on coastal land.	Building permits are issued by Director of Planning; must submit site plan.	San Diego Unified Port Master Plan has jurisdiction over lands in and around San Diego Bay. Calif. Coastal Zone Conservation Act requires permits before acting in area from 3 mi. offshore to 1000 yds. inland.
San Francisco	Setback, conditional and other permits are issued by City Planning Commission.	Building permits are issued on site-plan approval of Bay Conservation and Development Commission.	S.F. Bay is exempt from Calif. Coastal Zone Conservation Act. The Bay Conservation and Development Commission has jurisdiction over land use developments.
Sacramento	Zoning regulations must be complied pursuant to specific locale.	City building codes must be adhered to for all development on fill sites.	General Plan for Sacramento establishes land use policies.

Situs	Zoning Regulations	Building Ordinances	Others
New York (cont'd.)			
Nassau County	Zoning regulations not made available.	Construction can only commence upon notification of Nassau Co. Planning Commission (Ord. No. 157).	Subdivision plats need approval of Planning Authority which include grading, filling. (Co. Govt. Law Section 1610 (J)).
New York City	Zoning governs special natural area districts, nonconforming uses, and setbacks.	Require permits for building foundation, earthwork permits, landfill.	Landfill permits from City and Dept. of Ports and Terminals for fills in port jurisdiction.
Ohio			
*Cleveland	Local zoning ordinances have designated a recreation and open space area.	Ohio Constitution states that all submerged land is the property of the State and that its use must be retained for public purposes. Local government reviews building applications in accordance with zoning designation.	There is much environmental opposition to mosquitos, odor, and other ecological disturbances.
Oregon	Division of State Lands has Fill and Removal Permit Program.		
Coos Bay	No ordinances impacting DMCAs. They operate under comprehensive state planning goals.		
Clatsop County	County ordinances do not address dredging, but Oregon State Land Use Goals do.		
Astoria			Comprehensive State-wide Planning Goals apply to all State shorelands from 200 feet offshore to 200 feet inland from tidal marshes; purpose is uniform laws; dredging is a permissible use.

*Part of ERCO study

Situs	Zoning Regulations	Building Ordinances	Others
California (cont'd.)			
Yolo County	Zoned agricultural or industrial	Allow only agricultural and industrial development.	The County planning commission restricts development.
Florida			
*Crystal Beach	Designated as open-space/ recreation area by Pinellas Co. Planning Council.	Building permits must conform to land use plan. Building restricted by Planning Council to conform with environmental compatibility.	Crystal Beach Community Association got permanent injunction which prevents continuation of dredging.
Illinois			
Chicago	Lake Michigan and Chicago Lakefront Protection Ordinance provides for zones to shoreline which include any DMCAs; called Lakefront Protection District (City Council Art. III, Section 194B-3).	Cannot build on lakefront without authority of Chicago Plan Commission. Dredging is included in definition of construction (City Council Art. V, Section 194B-5.1).	Lake Michigan and Chicago Lakefront Protection Ordinance. (See extensive summary in City/ County Section).
Louisiana			
New Orleans	Zoning ordinances regulate conditional use, height limitation and non-conforming use.	Building excavation and grading permits are issued on approval of the City Planning Commission.	The State Levee Board governs uses in levee areas, and the Corps of Engineers governs wetlands under Section 404 of Federal Water Pollution Control Act (Pub. L. No. 92-500)
New York			
Erie County Buffalo Lackawanna	Dredging operations constitute a use which must comply with zoning regulations of Erie County.	Structures on filled areas must meet foundation regulations which require building permit.	Conservationists are lobbying to prevent fill in potential wildlife areas.

*Part of ERCO study

Situs	Zoning Regulations	Building Ordinances	Others
Virginia			
Norfolk	(No containment areas exist, none have benefited from regulations, nor has there been regulation specifically addressed to DMCAs.)		
Craney Island (Portsmouth)	The Southeastern Virginia Planning District Commission sets guidelines for the implementation of DMCAs; not a local regulatory concern.		
Washington			
Seattle (State wants local govts. to control dredging) (cf. Oregon)	Zoning ordinances require permits for conditional use, non-conforming use, height limitation.	Need permits for excavation and grading on private land; grading permit is required for projects over 500 cu. yds. (Seattle Ord. Ch. 3.70).	For shoreline fills, the applicant must file bond with Superintendent of Building in amount to compensate for harm to public or private property which occurs within 3 yrs. from filling. (Seattle Ord. Ch. 3.70.035) (See extensive summary of Seattle Shoreland Master Program.)
Aberdeen	Board of Adjustments grants conditional use permits for removing topsoil, sand, gravel if greater than 75 cu. yds. (Aberdeen Zoning Ord. Section 11.014.080)	Building requirements are contained in Aberdeen Zoning Ordinances.	Has a Shoreline Management Master Program patterned after State Shoreline Management Act of 1971. Provides "use of area must be consistent with control of pollution and prevention of damage to environment." (City of Aberdeen Ord. No. 5181).
Lower Columbia River	Zoning regulations not made available.	Local government receives applications for shoreline development and forwards to Dept. of Ecology.	Uses controlled by Dept. of Natural Resources (State).

Situs	Zoning Regulations	Building Ordinances	Others
Washington (cont'd.)			
King County	Zoning regulations not made available.	King County Grading Ordinance sets conditions and rules for grading, i.e., lateral support uses. Dredging operations require County Substantial Development Permits.	Has extensive Shoreline Management Master Program.
*Anacortes	Zoned for heavy industrial park.	Industrial building permits are required.	Comprehensive plan set guidelines for industrial development area.
*Hoquiam	Area is zoned industrial which includes manufacturing, processing, fabricating.	Must comply with comprehensive estuary plan and Port of Grays Harbour industrial building ordinance.	Site is owned by Port of Gray's Harbour which labelled area Industrial District No. 1, and passed resolution No. 1673 which *promised continuing* cooperation in developing a comprehensive plan for the estuary.
Wisconsin			
*Bayport	General Industry District; plus a small portion designated as Conservancy Area designed for recreation and conservation and open-space uses.	Must be in accordance with particular zoning area.	Brown County Comprehensive Plan is the only one concerning the area. It designated the area as industrial.

*Part of ERCO study

APPENDIX F: MATRIX SHOWING IMPACT OF PORT DISTRICT AUTHORITIES ON LAND USE

		AUTHORITY CREATING PORT DISTRICT			LAND OWNERSHIP IN PORT AREA	LOCAL LAWS CONTROLLING USE OF OF PORT LAND					
STATE	PORT DISTRICT	CREATED BY STATE LAW	CREATED BY MUNICIPAL LAW	CREATED BY COUNTY LAW	PORT DISTRICT OWNS LAND IN AND AROUND PORT	PORT DISTRICT SUBJECT TO LOCAL ZONING	PORT DISTRICT SUBJECT TO LOCAL BUILDING CODE	PORT DISTRICT SUBJECT TO LOCAL LAND USE PLANNING	PORT EXERCISES INDEPENDENT AUTHORITY OVER LAND USE	LAND USE IN PORT DISTRICT IS SUBJECT TO SPECIFIC RESTRICTIONS	COMMENTS ON SPECIFIC LAND USE RESTRICTION
CALIF.	LOS ANGELES	NO	YES	NO	YES	YES	YES	YES	YES	NO	WIDE VARIETY OF USE ALLOWED, WITHIN ZONING AND PLANNING GUIDELINES
	OAKLAND	NO	YES	NO	YES	YES	YES	NO	YES	NO	N/A
	STOCKTON	NO	NO	NO	YES	YES	YES	NO	YES (THROUGH OWNERSHIP AUTHORITY)	NO	N/A
	SACRAMENTO	NO	NO	NO	NO	YES	YES	YES (GENERAL PLAN FOR SACRAMENTO)	NO	YES	DRCA IN YOLO COUNTY FOR USE AS AGRI. & INDUS., GEN. PLAN FOR SACRAMENTO SPECIFIES USE OF DH FOR RECLAIMING LOW LYING LAND FOR URBAN PURPOSES.
	OXNARD	NO	NO	NO	NO	YES	YES	NO	NO	NO	N/A
	LONG BEACH	NO	NO	NO	NO	NO	YES	NO	NO	YES	THE COASTAL COMMISSION RESTRICTS USE TO PRIMARILY MARINE COMMERCE
	SAN FRANCISCO	NO	NO	NO	NO	YES	YES	YES	NO	YES	USE RESTRICTED TO MARITIME PURPOSES BY CITY PLANNING, ALSO SUBJECT TO BAY CONSERVATION AND DEVELOPMENT COMMISSION PERMIT.

THIS MATRIX REPRESENTS RESPONSES FROM PERSONAL COMMUNICATION WITH THE PORT DISTRICT'S PERSONNEL IN CONJUNCTION WITH SURVEYS OF PORT DISTRICT CHARTERS.

		AUTHORITY CREATING PORT DISTRICT			LAND OWNERSHIP IN PORT AREA	LOCAL LAWS CONTROLLING USE OF OF PORT LAND					
STATE	PORT DISTRICT	CREATED BY STATE LAW	CREATED BY MUNICIPAL LAW	CREATED BY COUNTY LAW	PORT DISTRICT OWNS LAND IN AND AROUND PORT	PORT DISTRICT SUBJECT TO LOCAL ZONING	PORT DISTRICT SUBJECT TO LOCAL BUILDING CODE	PORT DISTRICT SUBJECT TO LOCAL LAND USE PLANNING	PORT EXERCISES INDEPENDENT AUTHORITY OVER LAND USE	LAND USE IN PORT DISTRICT IS SUBJECT TO SPECIFIC RESTRICTIONS	COMMENTS ON SPECIFIC LAND USE RESTRICTION
CALIF.	SAN DIEGO	NO	NO	NO	NO	NO	YES	NO	NO	NO	N/A
FLA.	CANAVERAL	YES	NO	NO	YES	NO	NO	NO	YES	YES	USE RESTRICTED BY PORTS, OWN ZONING TO WATER-ORIENTED USES BENEFICIAL TO PORT DISTRICT
	EVERGLADES	NO	NO	NO	NO	NO	NO	NO	NO	NO	N/A
	FT. PIERCE	YES	NO	NO	NO	YES (NOTE: STATE LAW MAKES PORT SUBJECT TO COUNTY COMMISSIONER'S SUPERVISION)	YES	YES	NO	NO	EXCEPT FOR LOCAL ZONING WHICH PUTS PORT IN INDUSTRIAL ZONE.
	DADE COUNTY	NO	NO	YES	YES	YES	YES	YES	YES (THROUGH OWNERSHIP)	YES	USES LIMITED TO PORT OPERATIONS
	JACKSONVILLE	YES	NO	NO	YES (ABOUT 15%; REMAINDER PRIVATELY OWNED)	YES	YES	YES	NO	YES	N/A
	MANATEE CO.	YES	NO	NO	YES	YES (NOTE: STATE LAW MAKES PORT SUBJECT TO COUNTY COMMISSIONER'S SUPERVISION)	YES	YES	NO	NO	EXCEPT FOR LOCAL ZONING WHICH RESTRICTS TO INDUSTRIAL USES

		AUTHORITY CREATING PORT DISTRICT			LAND OWNERSHIP IN PORT AREA	LOCAL LAWS CONTROLLING USE OF OF PORT LAND					
STATE	PORT DISTRICT	CREATED BY STATE LAW	CREATED BY MUNICIPAL LAW	CREATED BY COUNTY LAW	PORT DISTRICT OWNS LAND IN AND AROUND PORT	PORT DISTRICT SUBJECT TO LOCAL ZONING	PORT DISTRICT SUBJECT TO LOCAL BUILDING CODE	PORT DISTRICT SUBJECT TO LOCAL LAND USE PLANNING	PORT EXERCISES INDEPENDENT AUTHORITY OVER LAND USE	LAND USE IN PORT DISTRICT IS SUBJECT TO SPECIFIC RESTRICTIONS	COMMENTS ON SPECIFIC LAND USE RESTRICTION
FLA.	PALM BEACH	YES	NO	NO	YES	YES	YES	YES	YES (THROUGH OWNERSHIP)	NO	N/A
	PANAMA CITY	YES	NO	NO	NO (CITY OWNS)	YES (NOTE: STATE LAW MAKES PORT SUBJECT TO SUPERVISION OF CITY GOVERNMENT)		NO	YES (SOURCE OF AUTHORITY NOT SPECIFIED)	NO	N/A
	TAMPA	YES	NO	NO	YES (PLUS PRIVATE OWNERSHIP)	YES	YES	YES	YES	YES	RESTRICTED BY PLAN OF PORT AUTHORITY
GEORGIA	BRUNSWICK	NO	YES	NO	YES (SOME INDUSTRIAL PROPERTY OWNED BY PORT DISTRICT)	YES	YES	YES	YES (THROUGH OWNERSHIP)	YES	RESTRICTED TO COMMERCIAL, MANUFACTURING, AIRPORTS AND ROADS
	GEORGIA	YES	NO	NO	YES	YES	YES	YES	YES (SUBJECT TO STATE REVIEW)	YES	STATE COMMITTEE REGULATES SALE AND USES.
	SAVANNAH	NO	NO	NO	NO	YES	YES	NO	YES	NO	N/A
ILLINOIS	CHICAGO REGIONAL	YES	NO	NO	NO (OWNS IN HARBOR BED ONLY)	NO	NO	NO	YES (SOURCE OF AUTHORITY NOT SPECIFIED)	NO	N/A

		AUTHORITY CREATING PORT DISTRICT			LAND OWNERSHIP IN PORT AREA	LOCAL LAWS CONTROLLING USE OF OF PORT LAND					
STATE	PORT DISTRICT	CREATED BY STATE LAW	CREATED BY MUNICIPAL LAW	CREATED BY COUNTY LAW	PORT DISTRICT OWNS LAND IN AND AROUND PORT	PORT DISTRICT SUBJECT TO LOCAL ZONING	PORT DISTRICT SUBJECT TO LOCAL BUILDING CODE	PORT DISTRICT SUBJECT TO LOCAL LAND USE PLANNING	PORT EXERCISES INDEPENDENT AUTHORITY OVER LAND USE	LAND USE IN PORT DISTRICT IS SUBJECT TO SPECIFIC RESTRICTIONS	COMMENTS ON SPECIFIC LAND USE RESTRICTION
ILL.	WAUKEGAN	YES	NO	NO	YES	YES	YES	YES	YES	YES	RESTRICTED TO PORT ACTIVITIES
LA.	BATON ROUGE	YES	NO	NO	YES (PLUS PRIVATE OWNERSHIP)	YES	YES	YES	YES	NO	EXCEPT PORTIONS OF PORT FALLING IN MUNICIPAL BOUNDARY SUBJECT TO ZONING
	LAKE CHARLES	YES	NO	NO	YES (PLUS PRIVATE OWNERSHIP)	YES	YES	YES	YES	NO	SAME AS ABOVE
	NEW ORLEANS	YES	NO	NO	NO (EXCEPT FOR STATE TIDELANDS AREA)	NO	NO	NO	YES	NO	N/A
MD.	MARYLAND	YES	NO	NO	YES (PLUS PRIVATE OWNERSHIP)	NO	NO	? (MAYBE SUBJECT TO LOCAL PLANNING BY STATE LAW)	NO (STATE CONTROLS)	YES	TO PORT FACILITIES, BUT IS BROAD AUTHORITY AND ANYTHING RELATED TO MARINE FACILITIES IS APPROVABLE
MASS.	FALLS RIVER	NO	YES	NO	NO (STATE OWNS PORT AND ADVISES ON USE)	NO	NO	NO	NO (STATE CONTROLS)	YES	WATERBORNE COMMERCE-RELATED USES ONLY
	MASS.	YES	NO	NO	YES (PLUS PRIVATE OWNERSHIP)	NOTE: DISTRICT IS NOT SURE. RECENT CASE LAW POINTS TO PORT BEING SUBJECT TO LOCAL ZONING, BUILDING AND PLANNING.			YES	NO	VERY BROAD LANGUAGE IN ENABLING ACT, ANY USE REASONABLY RELATED TO PORT ACTIVITY IS OKAY.

		AUTHORITY CREATING PORT DISTRICT			LAND OWNERSHIP IN PORT AREA	LOCAL LAWS CONTROLLING USE OF OF PORT LAND					
STATE	PORT DISTRICT	CREATED BY STATE LAW	CREATED BY MUNICIPAL LAW	CREATED BY COUNTY LAW	PORT DISTRICT OWNS LAND IN AND AROUND PORT	PORT DISTRICT SUBJECT TO LOCAL ZONING	PORT DISTRICT SUBJECT TO LOCAL BUILDING CODE	PORT DISTRICT SUBJECT TO LOCAL LAND USE PLANNING	PORT EXERCISES INDEPENDENT AUTHORITY OVER LAND USE	LAND USE IN PORT DISTRICT IS SUBJECT TO SPECIFIC RESTRICTIONS	COMMENTS ON SPECIFIC LAND USE RESTRICTION
MISS.	JACKSON CO.	NO	NO	YES	NO (COUNTY OWNS)	NO	NO	NO	YES (THROUGH MANAGEMENT AUTHORITY)	YES	SOME PORT LAND IS RESTRICTED TO IMPORT/EXPORT USE
MICH.	DETROIT/ WAYNE CO.	YES (STATE LAW ESTABLISHED AND NAMES COUNTY THE ADMIN.)	NO	NO	NO (COUNTY OWNS)	YES	YES	YES	NO	NO	N/A
	MONROE	YES	NO	NO	YES (PLUS PRIVATE OWNERSHIP)	YES	YES	YES	YES	NO	EXCEPT FOR LOCAL ZONING WHICH HAS ZONED PORT AS HEAVY INDUSTRIAL
N.Y.	ALBANY	YES	NO	NO	YES	NO	NO	NO	YES	NO	N/A
	NIAGARA	YES	NO	NO	YES	NO	NO	NO	YES	NO	N/A
	NEW YORK/ NEW JERSEY	YES	NO	NO	YES	NO	NO	NO	NO	NO	N/A
N.C.	NORTH CAROLINA	YES	NO	NO	YES	NO	NO	NO	YES	YES	RESTRICTED TO PORT-RELATED USES

		AUTHORITY CREATING PORT DISTRICT			LAND OWNERSHIP IN PORT AREA	LOCAL LAWS CONTROLLING USE OF OF PORT LAND					
STATE	PORT DISTRICT	CREATED BY STATE LAW	CREATED BY MUNICIPAL LAW	CREATED BY COUNTY LAW	PORT DISTRICT OWNS LAND IN AND AROUND PORT	PORT DISTRICT SUBJECT TO LOCAL ZONING	PORT DISTRICT SUBJECT TO LOCAL BUILDING CODE	PORT DISTRICT SUBJECT TO LOCAL LAND USE PLANNING	PORT EXERCISES INDEPENDENT AUTHORITY OVER LAND USE	LAND USE IN PORT DISTRICT IS SUBJECT TO SPECIFIC RESTRICTIONS	COMMENTS ON SPECIFIC LAND USE RESTRICTION
ORE.	ASTORIA	LETTER INDICATES NO LAWS OR REGULATIONS RESTRICTING USES.					N/A	N/A	N/A	N/A	N/A
	PORTLAND	NO	NO	NO	NO	YES	YES	YES	NO	NO	N/A
TEXAS	BEAUMONT	YES	NO	NO	YES	NO	NO	NO	YES	NO	N/A
	BROWNSVILLE	YES	NO	NO	YES	NO	NO	NO	YES	NO	N/A
	PORT ARTHUR	YES	NO	NO	YES	NO	NO	NO	YES	YES	WATER-RELATED USES
VA.	NORFOLK	NO	YES	NO	NO	MOST LIKELY SUBJECT TO CITY ORDINANCE SINCE PORT IS BRANCH OF MUNICIPAL GOVERNMENT.			YES	NO	N/A
	VIRGINIA	YES	NO	NO	YES	NO (SUBJECT TO STATE BUILDING CODES)	NO	NO	NO	NO	USES UP TO DISCRETION OF BOARD OF PORT COMMISSIONERS

		AUTHORITY CREATING PORT DISTRICT			LAND OWNERSHIP IN PORT AREA	LOCAL LAWS CONTROLLING USE OF OF PORT LAND					
STATE	PORT DISTRICT	CREATED BY STATE LAW	CREATED BY MUNICIPAL LAW	CREATED BY COUNTY LAW	PORT DISTRICT OWNS LAND IN AND AROUND PORT	PORT DISTRICT SUBJECT TO LOCAL ZONING	PORT DISTRICT SUBJECT TO LOCAL BUILDING CODE	PORT DISTRICT SUBJECT TO LOCAL LAND USE PLANNING	PORT EXERCISES INDEPENDENT AUTHORITY OVER LAND USE	LAND USE IN PORT DISTRICT IS SUBJECT TO SPECIFIC RESTRICTIONS	COMMENTS ON SPECIFIC LAND USE RESTRICTION
WASH.	BELLINGHAM	YES (STATE LAWS ALLOW CO. TO CREATE & OPERATE PORT)	NO	NO	YES (ALSO LEASES STATE LAND SUBJECT TO SOME CONTROL BY STATE DEPT OF NATURAL RESOURCES)(ONE)	NO (NOT SURE)	YES	YES	YES (SUBJECT TO DNR CONTROL)	YES	COUNTY COMMISSIONERS HAVE RESTRICTED TO WATER-RELATED USES
	EVERETT	YES	NO	NO	YES	YES (NOT SURE IF LEGALLY REQUIRED BUT PORT DOES COMPLY	YES	YES	YES	YES	MUST GET PERMIT, USE RESTRICTED TO COMMERCE-RELATED USES
	GRAYS HARBOR	YES	NO	NO	YES	YES	YES	YES	YES	NO	ALMOST ANY USE EXCEPT RESIDENTIAL ALLOWED
	VANCOUVER	YES (STATE LAW SET UP MUNICIPAL CONTROL)	NO	NO	YES	YES	YES	YES	YES	NO	VERY BROAD USES ALLOWED
WIS.	BROWN CO.	NO	NO	YES	NO	YES	YES	YES	NO	NO	
	SUPERIOR	YES (MUNICIPAL GOVERNMENT SUPERVISES)	NO	NO	NO	YES	YES	YES	NO	NO	EXCEPT FOR LOCAL ZONING.

APPENDIX G: LETTER OF REQUEST SENT TO CORPS DISTRICTS

Attention: Chief of Construction Operations Division

Subject: Productive Uses

Dear Sir:

The Environmental Effects Laboratory of the U.S. Army Engineer Waterways Experiment Station is conducting for the Chief of the Corps of Engineers a comprehensive, nationwide research program on the disposal of dredged material and the productive uses of the acreage resulting from such disposal. Pressures for confined disposal of dredged material have increased significantly in recent years dictating a thorough examination of the possible land use alternatives.

Science Applications, Inc., under Contract No. DACW 39-77-C-0026, is commissioned to obtain and analyze the laws and regulations that influence the productive use that can be made of landfills created from dredged material (dredged material containment areas). The result of this study will provide the Corps of Engineers and other planners with a greater understanding of, and a ready reference to, the laws and regulations relevant to the implementation of productive land use projects involving dredge filled lands.

A principal product of this study will be recommendations for new federal, state and local laws. We are most interested to learn about laws in your District that have proven to be effective in facilitating or constraining productive uses for containment areas.

We have concluded a search of the Federal laws and regulations. At this point we seek your assistance in identifying the state and local laws and regulations that influence or constrain the industrial, commercial, residential, mariculture, agriculture, silvicultural, recreational or other productive uses of landfills resulting from the confined placement of dredged material in your district. We request that at your convenience you place a telephone call to Science Applications, Inc., and ask for either Don Macdonald (at Extension 200), Bill Dwyer (at Extension 280), Jim Cole (at Extension 237), or Mike Atencio (at Extension 237). In the course of the telephone conference, we will seek to determine whether filled containment areas are enjoying a wider or narrower range of uses than in other Districts and the extent to which this is attributable to local laws or regulations that either encourage or constrain productive use of containment areas. We are <u>not</u> here concerned with the laws that proscribe the placement of fill on water bottoms or upon land. We are seeking examples of laws, regulations or planning

Science Applications, Inc. 1200 Prospect St., P.O. Box 2351, La Jolla, Ca. 92038, 714/459-0211

Other SAI Offices: Albuquerque, Ann Arbor, Arlington, Atlanta, Boston, Chicago, Huntsville, Los Angeles, McLean, Palo Alto, San Diego, Sunnyvale, and Tucson.

processes that enhance or constrain the community's ability to make use of the new land. Our inquiry includes, but is not limited to, the following considerations:

1.a. What is the number of such sites currently under Federal legislative jurisdiction?

b. What is the number of such sites on Federally owned land under state jurisdiction?

c. Under which is further use contemplated?

2. To what extent is the planned end use known at the time an upland or waterside containment area is designated?

3.a. Is it easier to make productive use of urban, or rural containment areas?

b. What is the criteria used in making such . determination?

4. Is there a legislative scheme (laws and regulations) that simplifies intergovernmental coordination assisting in the implementation of productive uses of dredged material containment areas?

5. What is the character of the most restrictive environmental land use laws and regulations in your District influencing the productive use of containment areas?

6. Does your District have records of any testimony presented at local planning body hearings (e.g., port authority, comprehensive planning organizations, etc.) regarding the use of dredged material containment areas?

7. Have there been court interpretations (state and Federal) of laws (perhaps unpublished) which have influenced the implementation of productive uses of dredged material containment areas in your District?

8. What uses of this type of land are currently being made in your District?

Additionally, we have listed the counties where our research indicates dredged material containment areas are likely to be

located in your District. Please validate this list by either adding or deleting counties.

1. _____	6. _____
2. _____	7. _____
3. _____	8. _____
4. _____	9. _____
5. _____	10. _____

We appreciate any additional comments that you have regarding this research project. Again, please telephone Science Applications, Inc. at your earliest convenience: (714) 459-0211.

Thank you for your cooperation and consideration.

Respectfully

Don Macdonald
Environmental Sciences Division
Legal Systems Group
Science Applications, Inc.

DM:evm

cc: Mark D. Malkasian
Major EN, Contract Manager, Productive Uses Project

Dredged Material Research Project (DMRP)
U.S. Army Engineers Waterways Experiment Station

APPENDIX H: MATRIX OF CORPS DISTRICT RESPONSES

Corps District/ Division & States Included in Area of Jurisdiction	Federal Site Ownership	Extent to Which End Use is Known At Commencement of Project	Legislative Schemes Encountered Which Facilitate Intergovernmental Cooperation	Most Restrictive Laws & Regulations Encountered	Types of DMCA Land Uses
Sacramento District Calif. Nev. Utah Colo. Ariz. N.M.	Corps only owns a few acres	Minimal. Most material is sand and is reused. Very few sites used for productive uses.			State Police Academy only example of land use.
Jacksonville District Fla. Geo.	The Corps owns some permanent easements and Federal law allows use of Federal lands for recreation. State laws and regulations presently restrict up to 50% of Corps-owned disposal areas in open water, marshland and wetlands.	Minimal. Most upland areas are perpetual disposal areas with no foreseeable end use, for temporary sites, use is determined by owner who must comply with applicable laws and regulations.	No scheme presently exists but Corps and State of Florida are developing procedure to expedite dredge & fill permits.	State environmental land use laws were considered most restrictive, e.g., Florida Environmental Land and Water Management Act and Florida Beach and Shore Preservation Act.	Proposed land uses are basically for recreation and wildlife propagation. Pond developments have been built in the past.
Savannah District Geo. N.C. S.C.	Corps owns 4 disposal sites totalling 1720 acres.	Generally unknown; one instance where pursuant to Presidential Proclamation (1940) end use declared to be wildlife sanctuary.	Georgia does have a clearinghouse working with both Marsh Land Protection Agency & Ga. Dept. of Natural Resources to coordinate State responses.	Most restrictive law encountered was the National Environmental Policy Act (NEPA). NEPA imposed diking requirements of DMCAs to control runoff. State Wetlands Act also restrictive.	No productive land uses planned; dredged material is deposited on shores.
Chicago District Ill. Ind. Mich. Misc.	None	Corps has some knowledge of DMCAs end use, subject to Pub. L. No. 91-611, Section 123 stating that local use of DMCAs is subject to Corps approval.	Unknown, however, Corps does consult with Misc. Dept. of Natural Resources, Div. of Water Resources and Ill. Coastal Zone Management.	Unknown	Presently sites are not completed. Plans call for: 1) Milwaukee area Fisherman's park & strip given to Coast Guard; 2) Green Bay area to be industrial.
Vicksburg District Miss. La. Ark.		Minimal. Local sponsors have a use for site as soon as material settles.		Natural and Scenic Rivers Act of Louisiana could inhibit use of land that was created years ago.	Park and bird refuge in Miss.
New Orleans District La. Miss. Ark. Tex.	Mouth of Miss. River is only Fed. ownership site (long-term easement). Recently La. has pronounced such easements "in perpetuity" as being unlawful.	Unknown	La. has established the Dept. of Transp. & Development Office of Public Works, a single agency which coordinates State agency response re: Corps activities.	1) The NEPA re: EIS covering disposal activity; 2) F&W Coordination Act of 1950 (disposal practice must not be environmentally damaging); 3) Marine Protection, Research, and Sanctuaries Act of 1972.	Port-related facilities in Port of New Orleans.
Baltimore District Md. Va. W.Va. Penn. N.Y.	No Corps ownership	Corps does not get involved in land use, after disposal the land is turned back to local government or owner who decides.	No scheme exists.	State Coastal Zone Management Program could significantly affect land use. Local government land use controls are also significant.	Agricultural (grazing) and recreational uses.

Corps District/ Division & States Included in Area of Jurisdiction	Federal Site Ownership	Extent to Which End Use is Known At Commencement of Project	Legislative Schemes Encountered Which Facilitate Intergovernmental Cooperation	Most Restrictive Laws & Regulations Encountered	Types of DMCA Land Uses
New England Div. Mass. Conn. N.H. Vt. Me.	No Corps site ownership or operations.	Minimal. Sometimes known but not always and Corps has no requirement that use be known.	Division has experienced difficulty in coordinating intergovernmental policy considerations. No schemes exist, but a River Basin Comm. has been proposed for area.	Both State land use and environmental laws have proved to be restrictive, e.g., Wetlands Protection law which engendered saltmarsh creation; filling solid waste landfills not allowed due to State solid waste laws.	A cove is planned for filling but due to poor material quality no building will be allowed on the site.
Detroit District Mich. Ind. Ohio		Corps not involved in planning for uses that the sponsor will make of the land.	State Wetlands Acts coordinated with Fish & Wildlife Departments State Depts. of Natural Resources.		Recreational use & wildlife refuge.
Portland District Ore. Wash.	Corps only owns 2 sites and these will be left as natural areas.	Most cases the use is determined prior to disposal due to Wash. Shoreline Management Act & Oregon law requiring royalty depending on use.	Oregon has exemplary process for coordinating State response & is working on including local responses.	Laws dealing with Wetlands Protection are most restrictive along with the laws allowing a State royalty. Also wildlife protection laws and conservation laws are stringent.	Many uses have been made including: industrial plant expansion (lumber, steel, aluminum), port facilities, airport, recreation, limited residential (cabins).
Galveston District Tex.		End uses are generally not known since sites are continuously used for disposal.		Texas Coastal Management Program was referred to for land use restrictions.	In a few cases, land was used for recreation.
Norfolk District Va. Md.	Federally-owned. One major disposal site - Craney Island (2500 acres). Fee ownership	No requirements imposed on Corps to know of end use, but it usually does know of the planned use.	Unknown	None	Agricultural, commercial, wildlife & industrial.
Seattle District Wash. Idaho Mont.	Corps owns one disposal site.	End use is known most of the time due to requirements of Department of Natural Resources (Wash.) requirement for royalty depending on end use. Shoreline Management Act also has requirements for planning and permitting.	No. Several local and State agencies must review and comment.	Shoreline Management Program for Washington said to be most restrictive.	
St. Paul District Minn. Wisc. Mich. Ia. N.D. S.D.				Floodplain laws in both Minn. & Wisc. prevent structures within 300 yards of the Minn. River. Corps has lost several disposal sites.	Industrial complexes have been established on sites. Dept. of Natural Resources and Wetlands Protection Law required setting aside some land planned for hotel complex for open space use.

APPENDIX I: COLLATION OF STATE LAWS BY CORPS DISTRICT

The following collation of state laws lists the titles of state legislation found in each of the listed Corps Districts. Only the legislation for the states analyzed in this study are included. This collation was developed to give the District offices a quick reference to some of the state laws summarized in this report which may affect DMCA land use in their District. The significant provisions of each law are presented on the matrix for that state and succinct descriptions of each law are given in the state law summary section of this report.

JACKSONVILLE DISTRICT

FLORIDA

Environmental Laws:

- Water Quality Law
  Air and Water Pollution Control Act
- Wildlands Protection Law
  Florida Aquatic Preserve Act

Land Use Laws:

- State Land Use and Land Use Planning Law
  Environmental Land and Water Management Act
- Public Lands Law
  Land Acquisition Trust Fund
- Sediment or Erosion Control Laws
  Beach and Shore Preservation Act
  Soil Conservation Law
- Local Zoning Enabling Law
  Florida's Planning and Zoning Laws
- Port District Enabling Law
  Port Facilities Financing Law

GEORGIA

Environmental Laws:

- Wetlands Protection Law

  Coastal Marshland Protection Act
- Wild/Scenic River System Law

  Scenic River Act
- Wildlands Protection Laws

  Natural Areas Council Act
  Heritage Trust Act
- Fish and Game Habitat Protection Law

  Endangered Wildlife Act

Land Use Laws:

- State Land Use and Land Use Planning Law

  Georgia State Planning Commission
- Sediment or Erosion Control Law

  Erosion and Sedimentation Act
- Local Zoning Enabling Law

  Georgia Zoning and Planning
- Port District Enabling Law

  Georgia Port Authority Enabling Law

SAVANNAH DISTRICT

GEORGIA

Environmental Laws:

- Wetlands Protection Law

  Coastal Marshland Protection Act
- Wild/Scenic River System Law

  Scenic River Act
- Wildlands Protection Laws

  Natural Areas Council Act
  Heritage Trust Act
- Fish and Game Habitat Protection Law

  Endangered Wildlife Act

Land Use Laws:

- State Land Use and Land Use Planning Law
  Georgia State Planning Commission
- Sediment or Erosion Control Law
  Erosion and Sedimentation Act
- Local Zoning Enabling Law
  Georgia Zoning and Planning
- Port District Enabling Law
  Georgia Port Authority Enabling Law

FLORIDA

Environmental Laws:

- Water Quality Law
  Air and Water Pollution Control Act
- Wildlands Protection Law
  Florida Aquatic Preserve Act

Land Use Laws:

- State Land Use and Land Use Planning Law
  Environmental Land and Water Management Act
- Public Lands Law
  Land Acquisition Trust Fund
- Sediment or Erosion Control Laws
  Beach and Shore Preservation Act
  Soil Conservation Law
- Local Zoning Enabling Law
  Florida's Planning and Zoning Laws
- Port District Enabling Law
  Port Facilities Financing Law

CHARLESTON DISTRICT

NORTH CAROLINA

Environmental Laws:

- Wetlands Protection Laws
  Coastal Area Management Act
  Permits to Dredge or Fill State-Owned Lands

- Wild/Scenic River System Law
  Natural and Scenic Rivers Act
- Wildland Protection Law
  North Carolina Land Conservancy Corporation

Land Use Laws:

- State Land Use and Land Use Planning Law
  Land Policy Act
- Public Lands Law
  State Land Law
- Sediment or Erosion Control Law
  Sedimentation Pollution Control Act
- Floodplain Protection Law
  Floodway Regulation
- Agricultural Zoning Law
  Agricultural, Horticultural and Forestland Law
- Local Zoning Enabling Laws
  North Carolina's Zoning and Planning Laws
- Port District Enabling Law
- Other Laws
  Open Space Law

WILMINGTON DISTRICT

NORTH CAROLINA

Environmental Laws:

- Wetlands Protection Laws
  Coastal Area Management Act
  Permits to Dredge or Fill State-Owned Lands
- Wild/Scenic River System Law
  Natural and Scenic Rivers Act
- Wildlands Protection Law
  North Carolina Land Conservancy Corporation

Land Use Laws:

- State Land Use and Land Use Planning Law
  Land Policy Act

- Public Lands Law
  State Land Law
- Sediment or Erosion Control Law
  Sedimentation Pollution Control Act
- Floodplain Protection Law
  Floodway Regulation
- Agricultural Zoning Law
  Agricultural, Horticultural and Forestland Law
- Local Zoning Enabling Law
  North Carolina's Zoning and Planning Laws
- Port District Enabling Law
- Other Laws
  Open Space Law

VIRGINIA

Environmental Laws:

- Wetlands Protection Law
  Virginia Wetlands Law
- Wild/Scenic River System Law
  Scenic Rivers Act
- Environmental Impact Law
  Environmental Impact Reports of State Agencies

Land Use Laws:

- State Land Use and Land Use Planning Law
  Virginia Critical Environmental Areas Law
- Sediment or Erosion Control Law
  Erosion and Sediment Control Law
- Floodplain Protection Law
  Flood Damage Reduction Act
- Local Zoning Enabling Law
  Zoning Ordinances Generally
- Port District Enabling Law
  Virginia Port Authority Law
- Other Laws
  Open Space Land Act

NORFOLK DISTRICT

VIRGINIA

Environmental Laws:

- Wetlands Protection Law
  Virginia Wetlands Law
- Wild/Scenic River System Law
  Scenic Rivers Act
- Environmental Impact Law
  Environmental Impact Reports of State Agencies

Land Use Laws:

- State Land Use and Land Use Planning Law
  Virginia Critical Environmental Areas Law
- Sediment or Erosion Control Law
  Erosion and Sediment Control Law
- Floodplain Protection Law
  Flood Damage Reduction Act
- Local Zoning Enabling Law
  Zoning Ordinances Generally
- Port District Enabling Law
  Virginia Port Authority Law
- Other Laws
  Open Space Land Act

NORTH CAROLINA

Environmental Laws:

- Wetland Protection Laws:
  Coastal Area Management Act
  Permits to Dredge State-Owned Lands
- Wild/Scenic River System Law
  Natural and Scenic Rivers Act
- Wildlands Protection Law
  North Carolina Land Conservancy Corporation

Land Use Laws:

- State Land Use and Land Use Planning Law
  Land Policy Act
- Public Lands Law
  State Land Law
- Sediment or Erosion Control Law
  Sedimentation Pollution Control Act
- Floodplain Protection Law
  Floodway Regulation Law
- Agricultural Zoning Law
  Agricultural, Horticultural and Forestland Law
- Local Zoning Enabling Law
  North Carolina's Zoning and Planning Laws
- Port District Enabling Law
  Port Authority Enabling Law
- Other Laws
  Acquisition of Open Space

BALTIMORE DISTRICT

MARYLAND

Environmental Laws:

- Wetlands Protection Law
  Coastal Wetlands Act
- Wild/Scenic River System Law
  Wild and Scenic Rivers Law
- Wildlands Protection Law
  Wildlands Preservation System
- Environmental Impact Law
  Environmental Policy Act

Land Use Laws:

- State Land Use and Land Use Planning Law
  State Planning
- Sediment or Erosion Control Law
  Sediment Control Law

- Agricultural Zoning Law

  Maryland Agricultural Land Preservation Foundation

- Local Zoning Enabling Law

  Maryland Planning and Zoning Enabling Law

NEW YORK

Environmental Laws:

- Wetlands Protection Laws

  Tidal Wetlands Protection Law
  Freshwater Wetlands Protection Act

- Water Quality Law

  Stream Protection Law

- Wild/Scenic River System Law

  Wild, Scenic and Recreational River System

- Wildlands Protection Laws

  Protection of Natural and Man-made Beauty Law
  Land Conservation

- Fish and Game Habitat Protection Law

  Fish and Wildlife Law

- Environmental Impact Law

  State Environmental Quality Review Law

Land Use Laws:

- State Land Use and Land Use Planning

  Adirondack Park Agency
  St. Lawrence-Eastern Ontario Commission
  Hudson River Valley Commission

- Sediment or Erosion Control Law

  Soil Conservation District Law

- Floodplain Protection Law

  Floodplain Protection Law

- Agricultural Zoning Law

  Agricultural District Law

- Local Zoning Enabling Law

  Local Land Use Authority

- Port District Enabling Law

  New York Port Authority Enabling Law

- Other Laws

  Acquisition of Open-space Lands Law
  Environmental Conservation Law
  Forest Taxation

VIRGINIA

Environmental Laws:

- Wetlands Protection Law

  Virginia Wetlands Law

- Wild/Scenic River System Law

  Scenic Rivers Act

- Environmental Impact Law

  Environmental Impact Reports of State Agencies

Land Use Laws:

- State Land Use and Land Use Planning Law

  Virginia Critical Environmental Areas Law

- Sediment or Erosion Control Law

  Erosion and Sediment Control Law

- Floodplain Protection Law

  Flood Damage Reduction Act

- Local Zoning Enabling Law

  Zoning Ordinances Generally

- Port District Enabling Law

  Virginia Port Authority Law

PHILADELPHIA DISTRICT

NEW YORK

Environmental Laws:

- Wetlands Protection Laws

  Tidal Wetlands Protection Law
  Freshwater Wetlands Protection Law

- Water Quality Law

  Stream Protection Law

- Wild/Scenic River System Law

  Wild, Scenic and Recreational River System

- Wildlands Protection Laws

  Protection of Natural and Man-made Beauty Law
  Land Conservation

- Fish and Game Habitat Protection

  Fish and Wildlife Law

- Environmental Impact Law

  State Environmental Quality Review Law

Land Use Laws:

- State Land Use and Land Use Planning

  Adirondack Park Agency
  St. Lawrence-Eastern Ontario Commission
  Hudson River Valley Commission

- Sediment or Erosion Control Law

  Soil Conservation District Law

- Floodplain Protection Law

  Floodplain Protection Law

- Agricultural Zoning Law

  Agricultural District Law

- Local Zoning Enabling Law

  Local Land Use Authority

- Port District Enabling Law

- Other Laws

  Acquisition of Open-space Lands Law
  Environmental Conservation Laws
  Forest Taxation

MARYLAND

Environmental Laws:

- Wetlands Protection Law

  Coastal Wetlands Act

- Wild/Scenic River System Law

  Wild and Scenic Rivers Law

- Wildlands Protection Law

  Wildlands Preservation System

- Environmental Impact Law

  Environmental Policy Act

Land Use Laws:

- State Land Use and Land Use Planning Law

  State Planning

- Sediment or Erosion Control Law

  Sediment Control Law

- Agricultural Zoning Law

  Maryland Agricultural Land Preservation Foundation

- Local Zoning Enabling Law

  Maryland Planning and Zoning Enabling Act

NEW ENGLAND (BOSTON) DIVISION

MASSACHUSETTS

Environmental Laws:

- Wetlands Protection Laws

  Wetlands Protection Law
  Inland Wetlands and Floodplain Protection
  Coastal Wetlands Protection

- Water Quality

  Compilation of water quality laws

- Wild/Scenic River System Law

  Scenic Rivers

- Wildlands Protection Law

  Scenic Mountains Preservation
  Conservation and Preservation Restrictions
  Martha's Vineyard Protection

- Fish and Game Habitat Protection Law

  Protection of Fish in Inland Waters
  Ocean Sanctuary Laws

- Environmental Impact Law

  Environmental Impact of Projects

Land Use Laws:

- State Land Use and Land Use Planning Law

  Assessment of Agricultural and Horticultural Land Law

- Public Land Law

  Submerged land laws

- Local Zoning Enabling Law

  Anti-Snob Zoning
  Historic Districts Act
  Zoning Enabling Act
  Regional Planning Law

- Port District Enabling Law

  Massachusetts Port Authority Law
  Port of Boston

- Other Laws

  Taxation of Forest Lands

NEW YORK

Environmental Laws:

- Wetlands Protection Law

  Tidal Wetlands Protection Law
  Freshwater Wetlands Protection Law

- Water Quality Law

  Stream Protection Law

- Wild/Scenic River System Law

  Wild, Scenic and Recreational River System

- Wildlands Protection Law

  Protection of Natural and Man-made Beauty Law
  Land Conservation

- Fish and Game Habitat Protection Law

  Fish and Wildlife Law

- Environmental Impact Law

  State Environmental Quality Review Law

Land Use Laws:

- State Land Use and Land Use Planning Law

  Adirondack Park Agency
  St. Louis-Eastern Ontario Commission
  Hudson River Valley Commission

- Sediment or Erosion Control Law

  Soil Conservation District Law

- Floodplain Protection Law

  Floodplain Protection Law

- Agricultural Zoning Law

  Agricultural District Law
- Local Zoning Enabling Law

  Local Land Use Authority
- Port District Enabling Law

  New York Port Authority Law
- Other Laws

  Acquisition of Open-Space Lands Law
  Environmental Conservation Laws
  Forest Taxation

NEW YORK DISTRICT

NEW YORK

Environmental Laws:

- Wetlands Protection Law

  Tidal Wetlands Protection Law
  Freshwater Wetlands Protection Act
- Water Quality Law

  Stream Protection Law
- Wild/Scenic River System Law

  Wild, Scenic and Recreational River System
- Wildlands Protection Law

  Protection of Natural and Man-Made Beauty Law
  Land Conservation
- Fish and Game Habitat Protection Law

  Fish and Wildlife Law
- Environmental Impact Law

  State Environmental Quality Review Law

Land Use Laws:

- State Land Use and Land Use Planning Law

  Adirondack Park Agency
  St. Lawrence-Eastern Ontario Commission
  Hudson River Valley Commission
- Sediment or Erosion Control Law

  Soil Conservation District Law
- Floodplain Protection Law

  Floodplain Protection Law

- Agricultural Zoning Laws

  Agricultural District Law

- Local Zoning Enabling Law

  Local Land Use Authority

- Port District Enabling Law

  New York Port Authority Enabling Law

- Other Laws

  Acquisition of Open-Space Lands Law
  Environmental Conservation Laws
  Forest Taxation

MASSACHUSETTS

Environmental Laws:

- Wetlands Protection Law

  Wetlands Protection Law
  Inland Wetlands and Floodplain Protection
  Coastal Wetlands Protection

- Water Quality Law

  Water Quality Laws

- Wild/Scenic River System Law

  Scenic Rivers

- Wildlands Protection Law

  Scenic Mountains Preservation
  Conservation and Preservation Restrictions
  Martha's Vineyard Protection

- Fish and Game Habitat Protection Law

  Protection of Fish in Inland Waters
  Ocean Sanctuary

- Environmental Impact Law

  Environmental Impact of Projects Law

Land Use Laws:

- State Land Use and Land Use Planning Law

  Assessment of Agricultural and Horticultural Lands

- Public Lands Law

  Submerged Land Laws

- Local Zoning Enabling Laws

  Anti-Snob Zoning
  Historic Districts Act
  Zoning Enabling Act
  Regional Planning Law

- Port District Enabling Law

  Massachusetts Port Authority Law
  Port of Boston

- Other Laws

  Taxation of Forest Lands

BUFFALO DISTRICT

NEW YORK

Environmental Laws:

- Wetlands Protection Law

  Tidal Wetlands Protection Law
  Freshwater Wetlands Protection Act

- Water Quality Act

  Stream Protection Law

- Wild/Scenic River System Law

  Wild, Scenic and Recreational River System

- Wildlands Protection Law

  Protection of Natural and Man-Made Beauty Law
  Land Conservation

- Fish and Game Habitat Protection Law

  Fish and Wildlife Law

- Environmental Impact Law

  State Environmental Quality Review Law

Land Use Laws:

- State Land Use and Land Use Planning Law

  Adirondack Park Agency
  St. Lawrence-Eastern Ontario Commission
  Hudson River Valley Commission

- Sediment or Erosion Control Law

  Soil Conservation District Law

- Floodplain Protection Law

  Floodplain Protection Law

- Agricultural Zoning Laws

  Agricultural District Law
- Local Zoning Enabling Law

  Local Land Use Authority
- Port District Enabling Law

  New York Port Authority Enabling Law
- Other Laws

  Acquisition of Open-Space Lands Law
  Environmental Conservation Laws
  Forest Taxation

PITTSBURGH DISTRICT

NEW YORK

Environmental Laws:

- Wetlands Protection Law

  Tidal Wetlands Protection Law
  Freshwater Wetlands Protection Act
- Water Quality Law

  Stream Protection Law
- Wild/Scenic River System Law

  Wild, Scenic and Recreational River System
- Wild Lands Protection Law

  Protection of Natural and Man-Made Beauty Law
  Land Conservation
- Fish and Game Habitat Protection Law

  Fish and Wildlife Law
- Environmental Impact Law

  State Environmental Quality Review Law

Land Use Laws:

- State Land Use and Land Use Planning Law

  Adirondack Park Agency
  St. Lawrence-Eastern Ontario Commission
  Hudson River Valley Commission
- Sediment or Erosion Control Law

  Soil Conservation District Law
- Floodplain Protection Law

  Floodplain Protection Law

- Agricultural Zoning Law

  Agricultural District Law
- Local Zoning Enabling Law

  Local Land Use Authority
- Port District Enabling Law

  New York Port Authority Enabling Law
- Other Laws

  Acquisition of Open-Space Lands Law
  Environmental Conservation Laws
  Forest Taxation

MARYLAND

Environmental Laws:

- Wetlands Protection Law

  Coastal Wetlands Act
- Wild/Scenic River System Law

  Wild and Scenic Rivers Law
- Wildlands Protection Law

  Wildlands Preservation System
- Environmental Impact Law

  Environmental Policy Act

Land Use Laws:

- State Land Use and Land Use Planning

  State Planning
- Sediment or Erosion Control Law

  Sediment Control Law
- Agricultural Zoning Law

  Maryland Agricultural Land Preservation Foundation
- Local Zoning Enabling Law

  Maryland Planning and Zoning Enabling Law

HUNTINGTON DISTRICT

VIRGINIA

Environmental Laws:

- Wetlands Protection Law

  Virginia Wetlands Law

- Wild/Scenic River System Law
  Scenic Rivers Act
- Environmental Impact Law
  Environmental Impact Reports of State Agencies

Land Use Laws:

- State Land Use and Land Use Planning Law
  Virginia Critical Environmental Areas Law
- Sediment or Erosion Control Law
  Erosion and Sediment Control Law
- Floodplain Protection Law
  Flood Damage Reduction Act
- Local Zoning Enabling Law
  Zoning Ordinances Generally
- Port District Enabling Law
  Virginia Port Authority Law

DETROIT DISTRICT

MICHIGAN

Environmental Laws:

- Wetlands Protection Law
  Inland Lakes and Streams Act
  Shorelands Protection and Management Act
- Wild/Scenic River System Law
  Natural River Act
- Wildlands Protection Law
  Wilderness and Natural Areas Act
- Fish and Game Habitat Protection Law
  Endangered Species Act

Land Use Laws:

- Public Land Law
  Great Lakes Submerged Lands Act
- Sediment or Erosion Control Law
  Soil Erosion and Sedimentation Control Act

- Agricultural Zoning Law
  Farmland and Open Space Preservation Act
- Local Zoning Enabling Law
  Michigan's Planning, Housing and Zoning Enabling Law
- Port District Enabling Law
  Michigan Port District's Enabling Law

LOUISVILLE DISTRICT

ILLINOIS

Environmental Laws:

- Wetlands Protection Law
  Illinois Coastal Zone Management Program
- Water Quality Law
  Regulation of Rivers, Lakes, and Streams
- Wild/Scenic River System Law
  Wild or Scenic Rivers
- Wildlands Protection Law
  Conservation District Act
  State Parks
- Environmental Impact Law
  Illinois Environmental Protection Act

Land Use Laws:

- Public Lands Law
  Regulation of Rivers, Lakes, and Streams
- Sediment or Erosion Control Law
  Soil and Water Conservation Districts Law
- Floodplain Protection Law
  Floodplain Law
- Local Zoning Enabling Law
  Illinois Zoning and Planning Enabling Act
- Port District Enabling Law
  Regional Port District Acts
- Other Laws
  Township Open Space Act
  Illinois Historic Preservation Act

NASHVILLE DISTRICT

GEORGIA

Environmental Laws:

- Wetlands Protection Law
  Coastal Marshland Protection Act
- Wild/Scenic River System Law
  Scenic River Act
- Wildlands Protection Law
  Natural Areas Council Act
  Heritage Trust Act
- Fish and Game Habitat Protection
  Endangered Wildlife Act

Land Use Laws:

- State Land Use and Land Use Planning
  Georgia State Planning Commission
- Sediment or Erosion Control Law
  Erosion and Sedimentation Act
- Local Zoning Enabling Law
  Georgia Zoning and Planning
- Port District Enabling Law
  Georgia Port Authority Enabling Law

MISSISSIPPI

Environmental Laws:

- Wetlands Protection Law
  Coastal Wetlands Protection Law
- Fish and Game Habitat Protection Law
  Fish, Game and Bird Protection and Refuges

Land Use Laws:

- Public Land Laws
  Leasing of Surface and Submerged Lands
- Sediment or Erosion Control Laws
  Soil and Water Conservation District Law

- Local Zoning Enabling Law

  Mississippi Zoning, Planning and Subdivision Enabling Law

- Port District Enabling Law

  Mississippi Port Districts Enabling Law

NORTH CAROLINA

Environmental Laws:

- Wetlands Protection Law

  Coastal Area Management Act
  Permits to Dredge State-Owned Lands

- Wild/Scenic River System Law

  Natural and Scenic Rivers Act

- Wildlands Protection Law

  North Carolina Land Conservancy Corporation

Land Use Laws:

- State Land Use and Land Use Planning Law

  Land Policy Act

- Public Land Law

  State Land Law

- Sediment or Erosion Control Law

  Sedimentation Pollution Control Act

- Floodplain Protection Law

  Floodway Regulation

- Local Zoning Enabling Law

  North Carolina Zoning and Planning Laws

- Port District Enabling Laws

  Port Authority Enabling Law

- Other Laws

  Acquisition of Open Space
  Agricultural, Horticultural and Forestland

VIRGINIA

Environmental Laws:

- Wetlands Protection Law

  Virginia Wetlands Law

- Wild/Scenic River System Law
  Scenic Rivers Act
- Environmental Impact Law
  Environmental Impact Reports of State Agencies

Land Use Laws:

- State Land Use and Land Use Planning Law
  Virginia Critical Environmental Areas Law
- Sediment or Erosion Control Law
  Erosion and Sediment Control Law
- Floodplain Protection Law
  Flood Damage Reduction Act
- Local Zoning Enabling Law
  Zoning Ordinances Generally
- Port District Enabling Law
  Virginia Port Authority Law

MOBILE DISTRICT

FLORIDA

Environmental Laws:

- Water Quality Law
  Air and Water Pollution Control Act
- Wild Lands Protection Law
  Florida Aquatic Preserve Act

Land Use Laws:

- State Land Use and Land Use Planning Law
  Environmental Land and Water Management Act
- Public Land Law
  Land Acquisition
- Sediment or Erosion Control Law
  Beach and Shore Preservation Act
  Soil Conservation Law
- Local Zoning Enabling Law
  Florida Planning and Zoning Law

- Port District Enabling Law

  Port Facilities Financing Law

GEORGIA

Environmental Laws:

- Wetlands Protection Law

  Coastal Marshland Protection Act
- Wild/Scenic River System Law

  Scenic River Act
- Wildlands Protection Law

  Natural Areas Council Act Law
  Heritage Trust Act
- Fish and Game Habitat Protection Law

  Endangered Wildlife Act

Land Use Laws:

- State Land Use and Land Use Planning Commission

  Georgea State Planning Commission
- Sediment or Erosion Control Law

  Erosion and Sedimentation Act
- Local Zoning Enabling Law

  Georgia Zoning and Planning
- Port District Enabling Law

  Georgia Port Authority Enabling Law

LOUISIANA

Environmental Laws:

- Wetlands Protection Law

  State and Local Coastal Resources Management Act

Land Use Laws:

- Local Zoning Enabling Law

  Municipal Zoning Regulations

MISSISSIPPI

Environmental Laws:

- Wetlands Protection Law

  Coastal Wetlands Protection Law

- Fish and Game Habitat Protection Law

  Fish, Game and Bird Protection and Refuges

Land Use Laws:

- Public Land Law

  Leasing of Surface and Submerged Lands

- Sediment or Erosion Control Law

  Soil and Water Conservation District Law

- Local Zoning Enabling Law

  Mississippi Zoning, Planning and Subdivision Enabling Law

- Port District Enabling Law

  Mississippi Port District's Enabling Law

NEW ORLEANS DISTRICT

LOUISIANA

Environmental Laws:

- Wetlands Protection Law

  State and Local Coastal Resources Management Act

Land Use Laws:

- Local Zoning Enabling Law

  Municipal Zoning Regulations

MISSISSIPPI

Environmental Laws:

- Wetlands Protection Law

  Coastal Wetlands Protection Law

- Fish and Game Habitat Protection Law

  Fish, Game and Bird Protection and Refuges

Land Use Laws:

- Public Land Law

  Leasing of Surface and Submerged Lands

- Sediment or Erosion Control Law

  Soil and Water Conservation District Law

- Local Zoning Enabling Law

  Mississippi Zoning, Planning and Subdivision Enabling Law

- Port District Enabling Law

  Mississippi Port Districts Enabling Law

TEXAS

Environmental Laws:

- Wetlands Protection Law

  Coastal Public Lands Management Act
  Texas Coastal Waterway Act

Land Use Laws:

- Public Land Law

  Excavation from Gulf Coast and Public Beaches
  Lease or Sale of State-Owned Lands

- Sediment or Erosion Control Law

  State Soil Conservation Law

- Floodplain Protection Law

  Flood Insurance Law

- Local Zoning Enabling Law

  Texas Local Zoning Enabling Law

- Port District Enabling Law

  Port Facilities Enabling Law

VICKSBURG DISTRICT

LOUISIANA

Environmental Laws:

- Wetlands Protection Law

  State and Local Coastal Resources Management Act

Land Use Laws:

- Local Zoning Enabling Law

  Municipal Zoning Regulations

MISSISSIPPI

Environmental Laws:

- Wetlands Protection Law

  Coastal Wetlands Protection Law

- Fish and Game Habitat Protection Law

  Fish, Game and Bird Protection and Refuges

Land Use Laws:

- Public Land Law

  Leasing of Surface and Submerged Lands
- Sediment or Erosion Control Law

  Soil and Water Conservation District Law
- Local Zoning Enabling Law

  Mississippi Zoning, Planning and Subdivision Enabling Law
- Port District Enabling Law

  Mississippi Port Districts Enabling Law

MEMPHIS DISTRICT

MISSISSIPPI

Environmental Laws:

- Wetlands Protection Law

  Coastal Wetlands Protection Law
- Fish and Game Habitat Protection Law

  Fish, Game and Bird Protection and Refuges

Land Use Laws:

- Public Land Law

  Leasing of Surface and Submerged Lands
- Sediment or Erosion Control Law

  Soil and Water Conservation District Law
- Local Zoning Enabling Law

  Mississippi Zoning, Planning and Subdivision Enabling Law
- Port District Enabling Law

  Mississippi Port Districts Enabling Law

ST. LOUIS DISTRICT

ILLINOIS

Environmental Laws:

- Wetlands Protection Law

  Illinois Coastal Zone Management Program
- Water Quality Law

  Regulation of Rivers, Lakes, and Streams
- Wild/Scenic River System Law

  Wild or Scenic Rivers
- Wildlands Protection Laws

  Conservation District Act
  State Parks
- Environmental Impact Law

  Illinois Environmental Protection Act

Land Use Laws:

- Public Lands Law

  Regulation of Rivers, Lakes and Streams
- Sediment or Erosion Control Law

  Soil and Water Conservation Districts Law
- Floodplain Protection Law

  Floodplain Law
- Local Zoning Enabling Law

  Illinois Zoning and Planning Enabling Act
- Port District Enabling Law

  Regional Port District Act
- Other Laws

  Township Open Space Act
  Illinois Historic Preservation Act

CHICAGO DISTRICT

ILLINOIS

Environmental Laws:

- Wetlands Protection Law

  Illinois Coastal Zone Management Program
- Water Quality Law

  Regulation of Rivers, Lakes, and Streams

- Wild/Scenic River System Law

  Wild or Scenic Rivers Law

- Wildlands Protection Laws

  Conservation District Act
  State Parks

- Environmental Impact Law

  Illinois Environmental Protection Act

Land Use Laws:

- Public Lands Law

  Regulation of Rivers, Lakes, and Streams

- Sediment or Erosion Control Law

  Soil and Water Conservation Districts Law

- Floodplain Protection Law

  Floodplain Law

- Local Zoning Enabling Law

  Illinois Zoning and Planning Enabling Act

- Port District Enabling Law

  Regional Port District Act

- Other Laws

  Township Open Space Act
  Illinois Historic Preservation Act

CHICAGO DISTRICT

ILLINOIS

Environmental Laws:

- Wetlands Protection Law

  Illinois Coastal Zone Management Program

- Water Quality Law

  Regulation of Rivers, Lakes, and Streams

- Wild/Scenic River System Law

  Wild or Scenic Rivers Law

- Wildlands Protection Laws

  Conservation District Act
  State Parks

- Environmental Impact Law
  Illinois Environmental Protection Act

Land Use Laws:

- Public Lands Law
  Regulation of Rivers, Lakes, and Streams
- Sediment or Erosion Control Law
  Soil and Water Conservation Districts Law
- Floodplain Protection Law
  Floodplain Law
- Local Zoning Enabling Law
  Illinois Zoning and Planning Enabling Act
- Port District Enabling Law
  Regional Port District Act
- Other Laws
  Township Open Space Act
  Illinois Historic Preservation Act

WISCONSIN

Environmental Laws:

- Wetlands Protection Law
  Wisconsin Shoreline Management Program
- Wild/Scenic River System Law
  Wild Rivers Law
- Wildlands Protection Laws
  Wisconsin's Conservation Act
- Environmental Impact Law
  Governmental Consideration of Environmental Impact

Land Use Laws:

- Public Land Law
  Submerged Land Laws
- Sediment or Erosion Control Law
  Soil and Water Conservation Districts Law
- Floodplain Protection Law
  Wisconsin Floodplain Zoning Law

- Local Zoning Enabling Law
  Wisconsin Local Zoning Power
- Port District Enabling Law
  Development and Operation of Harbors

ROCK ISLAND DISTRICT

ILLINOIS

Environmental Laws:

- Wetlands Protection Law
  Illinois Coastal Zone Management Program
- Water Quality Law
  Regulation of Rivers, Lakes, and Streams
- Wild/Scenic River System Law
  Wild or Scenic Rivers Law
- Wildlands Protection Law
  Conservation District Act
  State Parks
- Environmental Impact Law
  Illinois Environmental Protection Act

Land Use Laws:

- Public Lands Law
  Regulation of Rivers, Lakes, and Streams
- Sediment or Erosion Control Law
  Soil and Water Conservation Districts Law
- Floodplain Protection Law
  Floodplain Law
- Local Zoning Enabling Law
  Illinois Zoning and Planning Enabling Act
- Port District Enabling Law
  Regional Port District Act
- Other Laws
  Township Open Space Act
  Illinois Historic Preservation Act

WISCONSIN

Environmental Laws:

- Wetlands Protection Law
  Wisconsin Shoreline Management Program
- Wild/Scenic River System Law
  Wild or Scenic Rivers Law
- Wildlands Protection Laws
  Wisconsin's Conservation Act
- Environmental Impact Law
  Governmental Consideration of Environmental Impact

Land Use Laws:

- Public Land Law
  Submerged Land Laws
- Sediment or Erosion Control Law
  Soil and Water Conservation District Law
- Floodplain Protection Law
  Wisconsin Floodplain Zoning Law
- Local Zoning Enabling Law
  Wisconsin Local Zoning Power
- Port District Enabling Law
  Development and Operation of Harbors

ST. PAUL DISTRICT

WISCONSIN

Environmental Laws:

- Wetlands Protection Law
  Wisconsin Shoreline Management Program
- Wild/Scenic River System Law
  Wild or Scenic Rivers Law
- Wildlands Protection Laws
  Wisconsin's Conservation Act
- Environmental Impact Law
  Governmental Consideration of Environmental Impact

Land Use Laws:

- Public Land Law
  Submerged Land Laws
- Sediment or Erosion Law
  Soil and Water Conservation District Law
- Floodplain Protection Law
  Wisconsin Floodplain Zoning Law
- Local Zoning Enabling Law
  Wisconsin Local Zoning Power
- Port District Enabling Law
  Development and Operation of Harbors

MICHIGAN

Environmental Laws:

- Wetlands Protection Law
  Inland Lakes and Streams Act
  Shorelands Protection and Management Act
- Wild/Scenic River System Law
  Natural River Act
- Wildlands Protection Law
  Wilderness and Natural Areas Act
- Fish and Game Habitat Protection Law
  Endangered Species Act

Land Use Laws:

- Public Lands Law
  Great Lakes Submerged Lands Act
- Sediment or Erosion Control Law
  Soil Erosion & Sedimentation Control Act
- Agricultural Zoning Law
  Farmland and Open Space Preservation Act
- Local Zoning Enabling Law
  Michigan's Planning, Housing & Zoning Enabling Law
- Port District Enabling Law
  Michigan Port District Enabling Law

TULSA DISTRICT

TEXAS

Environmental Laws:

- Wetlands Protection Law

  Coastal Public Lands Management Act
  Texas Coastal Waterway Act

Land Use Laws:

- Public Land Laws

  Excavation from Gulf Coast and Public Beaches
  Lease or Sale of State-Owned Lands

- Sediment or Erosion Control Law

  State Soil Conservation Law

- Floodplain Protection Law

  Flood Insurance Loa

- Local Zoning Enabling Law

  Texas Local Zoning Enabling Law

- Port District Enabling Law

  Port Facilities Enabling Law

DALLAS DISTRICT

TEXAS

Environmental Laws:

- Wetlands Protection Law

  Coastal Public Lands Management Act
  Texas Coastal Waterway Act

Land Use Laws:

- Public Land Laws

  Excavation from Gulf Coast and Public Beaches
  Lease or Sale of State-Owned Lands

- Sediment or Erosion Control Law

  State Soil Conservation Law

- Floodplain Protection Law

  Flood Insurance Law

- Local Zoning Enabling Law
  Texas Local Zoning Enabling Law
- Port District Enabling Law
  Port Facilities Enabling Law

LOUISIANA

Environmental Laws:

- Wetlands Protection Law
  State and Local Coastal Resources Management Act

Land Use Laws:

- Local Zoning Enabling Law
  Municipal Zoning Regulations

GALVESTON DISTRICT

TEXAS

Environmental Laws:

- Wetlands Protection Law
  Coastal Public Lands Management Act
  Texas Coastal Waterway Act

Land Use Laws:

- Sediment or Erosion Control Law
  State Soil Conservation Law
- Floodplain Protection Law
  Flood Insurance Law
- Local Zoning Enabling Law
  Texas Local Zoning Enabling Law
- Port District Enabling Law
  Port Facilities Enabling Law

LOUISIANA

Environmental Laws:

- Wetlands Protection Law
  State and Local Coastal Resources Management Act

Land Use Laws:

- Local Zoning Enabling Law
  Municipal Zoning Regulations

ALBUQUERQUE DISTRICT

TEXAS

Environmental Laws:

- Wetlands Protection Law

  Coastal Public Lands Management Act
  Texas Coastal Waterway Act

Land Use Laws:

- Public Land Law

  Excavation from Gulf Coast and Public Beaches
  Lease or Sale of State-Owned Lands

- Sediment or Erosion Control Law

  State Soil Conservation Law

- Floodplain Protection Law

  Flood Insurance Law

- Local Zoning Enabling Law

  Texas Local Zoning Enabling

- Port District Enabling Law

  Port Facilities Enabling Law

LOS ANGELES DISTRICT

CALIFORNIA

Environmental Laws:

- Wetlands Protection Law

  Keene-Nejedly California Wetlands Preservation Act
  California Coastal Act
  McAteer-Petris Act - San Francisco Bay Conservation and Development Commission

- Wild/Scenic River System Law

  Wild and Scenic Rivers Act

- Wildlands Protection Law

  California Wilderness Act

- Fish and Game Habitat Protection Law

  Wildlife Conservation Law
  Fish and Wildlife Protection and Conservation

- Environmental Impact Law

  California Environmental Quality Act

Land Use Laws:

- State Land Use and Land Use Planning Law

  State Land Use Planning Laws

- Public Land Law

  Public Lands - Submerged Land

- Floodplain Protection Law

  Cobey-Alquist Floodplain Management Act

- Agricultural Zoning Law

  California Land Conservation Act (Williamson Act)

- Local Zoning Enabling Law

  Zoning Enabling Laws
  Airport Land Use Commission

- Port District Enabling Law

  California River Port Districts Enabling Law
  California Port District Enabling Laws

- Other Laws

  Open-Space Lands Act

SACRAMENTO DISTRICT

CALIFORNIA

Environmental Laws:

- Wetlands Protection Law

  Keene-Nejedly California Wetlands Preservation Act
  California Coastal Act
  McAteer-Petris Act - San Francisco Bay Conservation and Development Commission

- Wild/Scenic River System Law

  Wild and Scenic Rivers Act

- Wildlands Protection Law

  California Wilderness Act

- Fish and Game Habitat Protection Law

  Wildlife Conservation Law
  Fish and Wildlife Protection and Conservation

- Environmental Impact Law

  California Environmental Quality Act

Land Use Laws:

- State Land Use and Land Use Planning Law

  State Land Use Planning Laws

- Public Land Law

  Public Lands - Submerged Land

- Floodplain Protection Law

  Cobey-Alquist Floodplain Management Act

- Agricultural Zoning Law

  California Land Conservation Act (Williamson Act)

- Local Zoning Enabling Law

  Zoning Enabling Laws
  Airport Land Use Commission

- Port District Enabling Law

  California River Port Districts Enabling Law
  California Port District Enabling Laws

- Other Laws

  Open-Space Lands Act

OREGON

Environmental Laws:

- Wetlands Protection Law

  Coastal Zones
  Ocean Shores: State Recreation Areas

- Wild/Scenic River System Law

  Scenic Waterways

- Wildlands Protection Law

  Natural Areas Preserves

Land Use Laws:

- State Land Use and Land Use Planning Law

  Oregon Land Use Act

- Public Land Law

  Removal of Material: Filling
  Laws on removing material from submerged land

- Sediment or Erosion Control Law

  Soil and Water Conservation
- Agricultural Zoning Law

  Agricultural Land Use
- Local Zoning Enabling Law

  Local Planning and Zoning Enabling Laws
- Port District Enabling Law

  Port Enabling Law
- Other Laws

  Open-Space Lands

SAN FRANCISCO DISTRICT

CALIFORNIA

Environmental Laws:

- Wetlands Protection Law

  Keene-Nejedly California Wetlands Preservation Act
  California Coastal Act
  McAteer-Petris Act - San Francisco Bay Conservation and Development Commission
- Wild/Scenic River System Law

  Wild and Scenic Rivers Act
- Wildlands Protection Law

  California Wilderness Act
- Fish and Game Habitat Protection Law

  Wildlife Conservation Law
  Fish and Wildlife Protection and Conservation
- Environmental Impact Law

  California Environmental Quality Act

Land Use Laws:

- State Land Use and Land Use Planning Law

  State Land Use Planning Laws
- Public Land Law

  Public Lands - Submerged Land

- Floodplain Protection Law

  Cobey-Alquist Floodplain Management Act

- Agricultural Zoning Law

  California Land Conservation Act (Williamson Act)

- Local Zoning Enabling Law

  Zoning Enabling Laws
  Airport Land Use Commission

- Port District Enabling Law

  California River Port Districts Enabling Law
  California Port District Enabling Laws

- Other Laws

  Open-Space Lands Act

OREGON

Environmental Laws:

- Wetlands Protection Law

  Coastal Zones
  Ocean Shores: State Recreation Areas

- Wild/Scenic River System Law

  Scenic Waterways

- Wildlands Protection Law

  Natural Areas Preserves

Land Use Laws:

- State Land Use and Land Use Planning Law

  Oregon Land Use Act

- Public Land Law

  Removal of Material: Filling
  Laws on removing material from submerged land

- Sediment or Erosion Control Law

  Soil and Water Conservation

- Agricultural Zoning Law

  Agricultural Land Use

- Local Zoning Enabling Law

  Local Planning and Zoning Enabling Laws

- Port District Enabling Law

  Port Enabling Law

- Other Laws

  Open-Space Lands

WALLA WALLA DISTRICT

OREGON

Environmental Laws:

- Wetlands Protection Law

  Coastal Zones
  Ocean Shores: State Recreation Areas

- Wild/Scenic River System Law

  Scenic Waterways

- Wild Lands Protection Law

  Natural Areas Preserves

Land Use Laws:

- State Land Use and Land Use Planning Law

  Oregon Land Use Act

- Public Land Law

  Removal of Material: Filling
  Laws on removing material from submerged land

- Sediment or Erosion Control Law

  Soil and Water Conservation

- Agricultural Zoning Law

  Agricultural Land Use

- Local Zoning Enabling Law

  Local Planning and Zoning Enabling Laws

- Port District Enabling Law

  Port Enabling Law

- Other Laws

  Open-Space Lands

WASHINGTON

Environmental Laws:

- Wetlands Protection Law

  Shoreline Management Act
  Tidelands, Shorelands and Harbor Areas
- Wildlands Protection Law

  Natural Area Preserves
- Fish and Game Habitat Protection Law

  Fish Conservation Law
- Environmental Impact Law

  State Environmental Policy Act

Land Use Laws:

- Public Land Law

  Material removed for channel or harbor improvement laws
  Harbors and Tidewaters
- Floodplain Protection Law

  Flood Control Laws
- Local Zoning Enabling Law

  Washington Planning and Zoning Enabling Act
- Port District Enabling Law

  Port District Enabling Law

PORTLAND DISTRICT

OREGON

Environmental Laws:

- Wetlands Protection Law

  Coastal Zones
  Ocean Shores: State Recreation Areas
- Wild/Scenic River System Law

  Scenic Waterways
- Wildlands Protection Law

  Natural Areas Preserves

Land Use Laws:

- State Land Use and Land Use Planning Law

  Oregon Land Use Act

- Public Land Law

  Removal of Material: Filling
  Laws on removing material from submerged land
- Sediment or Erosion Control Law

  Soil and Water Conservation
- Agricultural Zoning Law

  Agricultural Land Use
- Local Zoning Enabling Law

  Local Planning and Zoning Enabling Laws
- Port District Enabling Law

  Port Enabling Law
- Other Laws

  Open-Space Lands

WASHINGTON

Environmental Laws:

- Wetlands Protection Law

  Shoreline Management Act
  Tidelands, Shorelands and Harbor Areas
- Wildlands Protection Law

  Natural Areas Preserves
- Fish and Game Habitat Protection Law

  Fish Conservation Law
- Environmental Impact Law

  State Environmental Policy Act

Land Use Laws:

- Public Land Law

  Material removed for channel or harbor improvement laws
  Harbors and Tidewaters
- Floodplain Protection Law

  Flood Control Laws
- Local Zoning Enabling Laws

  Washington Planning and Zoning Enabling Act

- Port District Enabling Law

  Port District Enabling Law

SEATTLE DISTRICT

Environmental Laws:

- Wetlands Protection Law

  Shoreline Management Act
  Tidelands, Shorelands and Harbor Areas

- Wildlands Protection Law

  Natural Area Preserves

- Fish and Game Habitat Protection Law

  Fish Conservation Law

- Environmental Impact Law

  State Environmental Policy Act

Land Use Laws:

- Public Land Law

  Material removed for channel or harbor improvement laws
  Harbors and Tidewaters

- Floodplain Protection Law

  Flood Control Laws

- Local Zoning Enabling Law

  Washington Planning and Zoning Enabling Act

- Port District Enabling Law

  Port District Enabling Law

In accordance with letter from DAEN-RDC, DAEN-ASI dated 22 July 1977, Subject: Facsimile Catalog Cards for Laboratory Technical Publications, a facsimile catalog card in Library of Congress MARC format is reproduced below.

Cole, James
Evaluation of laws and regulations impacting the land use of dredged material containment areas / by James Cole, Michael Brainard, Science Applications, Inc., Environmental Sciences Division, La Jolla, Calif. Vicksburg, Miss. : U. S. Waterways Experiment Station ; Springfield, Va. : available from National Technical Information Service, 1978.
ii, 163, [129] p. : 27 cm. (Technical report - U. S. Army Engineer Waterways Experiment Station ; D-78-55)
Prepared for Office, Chief of Engineers, U. S. Army, Washington, D. C., under Contract No. DACW39-77-C-0026 (DMRP Work Unit No. 5D04)
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1. Containment areas. 2. Dredged material disposal. 3. Evaluation. 4. Land use. 5. Laws. 6. Regulations. 7. Waste disposal sites. I. Brainard, Michael, joint author. II. Science Applications, Inc. III. United States. Army. Corps of Engineers. IV. Series: United States. Waterways Experiment Station, Vicksburg, Miss. Technical report ; D-78-55.
TA7.W34 no.D-78-55