



November 4, 2016

COMMENTS SUBMITTED VIA <http://www.nj.gov/dep/rules/comments/>

New Jersey Department of Environmental Protection Docket Number 07-16-07

**RE: COMMENTS ON COASTAL ZONE MANAGEMENT RULES, N.J.A.C. 7:7-16.9;
PUBLIC ACCESS**

On behalf of the members of the Chemistry Council of New Jersey (CCNJ), we appreciate the opportunity to provide comments to the New Jersey Department of Environmental Protection (NJDEP) on the proposed public access amendments to the Coastal Zone Management Rules (the "Proposal").

The CCNJ represents over 70 companies involved in the business of chemistry (pharmaceuticals, chemicals, flavors and fragrances, petroleum refining, etc.) in New Jersey. The business of chemistry directly employs over 55,000 persons in New Jersey and is responsible for over \$25 billion dollars in revenues in New Jersey each year.

CCNJ, and our members, strongly believe that new and existing critical infrastructure, which could include development identified in the Proposal as commercial, industrial or homeland security, should not be required to provide on-site or off-site public access, due to their designation as critical infrastructure. For public access purposes, CCNJ defines "critical infrastructure" as follows:

- Facilities designated as such by the New Jersey Domestic Security Preparedness Act;
- Facilities regulated by the NJDEP Toxic Catastrophe Prevention Act (TCPA);
- Facilities regulated by the NJDEP Discharge Prevention Program (DPCC);
- Facilities regulated by the U.S. Department of Homeland Security (USDHS) Chemical Facility Anti-Terrorism Standards (CFATS); or
- Facilities regulated by the USDHS Maritime Transportation Security Act (MTSA).

It is not in the public interest for facilities meeting this definition to provide on-site public access due to health and safety concerns, the threat of terroristic activities, and/or physical obstructions that cannot be modified. In general, the Proposal recognizes such concerns as they relate to critical infrastructure and appropriately exempts and/or limits on-site access. However, in the event that a critical infrastructure site is unable to provide on-site public access, CCNJ does not believe it is suitable public policy to then require an off-site public access alternative.

In the spirit of Governor Christie's Executive Order No. 2, New Jersey should strive to lessen the regulatory burden on the industrial facilities, which will in turn encourage new investment and growth in the State. Though not the same as offering a place to swim or fish, our members' facilities employ thousands of people, pay millions of dollars in taxes, and produce needed consumer products and intermediates while maintaining a strong commitment to safety, providing no less of a public benefit. It is inappropriate to demand that these facilities provide off-site public access to tidal waters just so they are allowed to continue providing public benefits to their host communities and the State.

CCNJ strongly recommends that a stand-alone exemption from the public access rules be included for all new and existing critical infrastructure, as defined above, regardless of what regulated activities they perform and regardless of whether a municipality has an approved public access plan or not.

There are also sites that are not considered "critical infrastructure" but have hazardous, unsafe conditions, which are not in the public's best interests to access. CCNJ, and our members, believe that all sites undergoing activities directly related to the remediation of a contaminated media should be exempt from requiring any kind of public access. This is a matter of public health; allowing the public to access these sites and, therefore, be exposed to contaminants, should not be encouraged.

We thank you for the NJDEP's consideration of our comments on this important regulatory proposal. We look forward to continuing to work with the NJDEP on regulations on this specific issue, as well as to improve the NJDEP's regulatory development process in general.

Sincerely,

A handwritten signature in black ink that reads "Samantha L. Jones". The signature is written in a cursive, flowing style.

Samantha Jones
Director of Regulatory Affairs