Coastal Zone Management Compliance Summary Table:

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7:7-9.4	Prime fishing areas	NA
7:7-9.5	Finfish migratory pathways	A2
7:7-9.6	Submerged vegetation habitat	NA
7:7-9.7	Navigation channels	A3
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7:7-9.9	Inlets	NA
7:7-9.10	Marina moorings	NA
7:7-9.11	Ports	NA
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7:7-9.14	Wet borrow pits	NA
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7:7-9.17	Overwash areas	NA
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7:7-9.19	Erosion hazard areas	NA
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7:7-9.23	Filled water’s edge	NA
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NA: Policy not applicable to project.		

Compliance with Coastal Zone Management Rules N.J.A.C. 7:7

A. Subchapter 9. Special Areas

1. Shellfish Habitat (N.J.A.C. 7:7-9.2)

Shellfish habitat is defined as an estuarine bay or river bottom which has a history of production for hard clams (*Mercenaria mercenaria*), soft clams (*Mya arenaria*), eastern oysters (*Crassostrea virginica*), bay scallops (*Argopecten irradians*), or blue mussels (*Mytilus edulis*), or otherwise listed in the section of the regulation.

According to Chart 2 of the 2015 Shellfish Growing Water Classification Charts prepared by the NJDEP, areas off the coast of Naval Weapons Station Earle are identified as restricted waters. Restricted waters are waters where the harvest of shellfish is not allowed except as authorized by an issued permit in accordance with N.J.A.C. 7:12-9. The "Distribution of Shellfish Resources" mapping identifies soft clam areas as well as hard clams in the vicinity of the proposed restoration site.

The disturbance to shellfish habitat will be minimized to the greatest extent possible. It is expected that during construction, local shellfish will be temporarily impacted with increased sedimentation and turbidity. However, sedimentation and turbidity will be minimized through the implementation of best management practices (BMPs) such as turbidity curtains, and other approved methods. Therefore, the project is consistent with this rule.

2. Finfish Migratory Pathways (N.J.A.C 7:7–9.5)

Finfish migratory pathways are waterways (rivers, streams, creeks, bays and inlets) which can be determined to serve as passageways for diadromous fish to or from seasonal spawning areas, including juvenile anadromous fish which migrate in autumn and those listed by H.E. Zich (1977) "New Jersey Anadromous Fish Inventory" NJDEP Miscellaneous Report No.41, and including those portions of the Hudson and Delaware Rivers within the coastal zone boundary. Species of concern include: alewife or river herring (*Alosa pseudoharengus*), blueback herring (*Alosa aestivalis*), American shad (*Alosa sapidissima*), striped bass (*Monrone saxatilis*), Atlantic sturgeon (*Acipenser oxyrhynchus*), shortnose sturgeon (*Acipenser brevirostrum*) and American eel (*Anguilla rostrata*).

It is expected that during construction, local shellfish, finfish, and benthic macroinvertebrates will be temporarily impacted with increased sedimentation and turbidity. However, sedimentation and turbidity will be minimized through the implementation of BMPs such as time-of-year restrictions, turbidity curtains, and other approved methods. Therefore, the project is consistent with this rule.

3. Navigation Channels (N.J.A.C. 7:7-9.7)

Navigation channels are tidal water areas including the Atlantic Ocean, inlets, bays, rivers and tidal guts with sufficient depth to provide safe navigation. Navigation channels include all areas between the top of the channel slopes on either side. These navigation

channels are often marked with buoys or stakes. Major navigation channels are shown on NOAA/National Ocean Service Charts.

According to this rule, development that will cause terrestrial soil and shoreline erosion and siltation in navigation channels shall utilize appropriate mitigation measures. Development that will result in loss of navigability is prohibited. Any construction which will extend into a navigation channel is prohibited. The placement of structures within 50 feet of any authorized navigation channel is discouraged, unless it can be demonstrated that the proposed structure will not hinder navigation.

The Naval Weapons Station Earle restoration site is located along the south shore of Sandy Hood Bay and features a 2.9-mile-long pier. Restoration activities would occur under the pier at a location closer to land, away from naval ship activity, and will not interfere with any recreational or commercial boat traffic. Therefore, the project is in compliance with this rule.

4. Shipwreck and Artificial Reef Habitats (N.J.A.C. 7:7-9.13)

The shipwreck and artificial reef special area includes all permanently submerged or abandoned remains of vessels and other structures, including, but not limited to, artificial reefs, anchors, quarry rocks or lost cargo, which serve as a special marine habitat or are fragile historic and cultural resources. An artificial reef is a man-made imitation of a natural reef created by placing hard structures on the sea floor for the purpose of enhancing fish habitat and fish stock. In time, an artificial reef will attain many of the biological and ecological attributes of a natural reef. Artificial reefs do not include shore protection structures, pipelines and other structures not constructed for the sole purpose of fish habitat.

There are no known shipwrecks or artificial reefs within the project area, and there is a low probability of unknown, submerged archeological resources in the vicinity of the Naval Weapons Station Earle pier, based on likely prior bottom disturbance. The project will restore oysters and oyster habitat by placing spat on shell, and installing reef balls and wire cages/gabions. The project is expected to improve feeding, breeding, and nursery grounds for fish and benthic communities, provide secondary coastal storm risk management benefits, and improve water quality through filtration. Therefore, the project is in direct compliance with this rule.

5. Intertidal and Subtidal Shallows (N.J.A.C. 7:7-9.15)

Intertidal and subtidal shallows are permanently or temporarily submerged areas from the spring high tide to a depth of four feet below mean low water.

The project is defined as a living shore as stated in N.J.A.C. 7:7-12.23. Based on this rule, the project is considered conditionally acceptable and will comply with N.J.A.C. 7:7-12.23; therefore, the project is consistent with this rule.

6. Historical and Archeological Resources (N.J.A.C. 7:7- 9.34)

Historic and archeological resources include objects, structures, shipwrecks, buildings and other items that either are on or are eligible for inclusion on the New Jersey or National Register of Historic Places.

A 2014 survey of cultural resources within the Hudson-Raritan Estuary (HRE) identified no cultural resources within 0.5 miles of the proposed restoration project, and there is a low probability of unknown, submerged archeological resources in the vicinity of the Naval Weapons Station Earle pier, based on likely prior bottom disturbance. However, the eastern portion of the proposed oyster restoration site is within the Naval Weapons Station Earle Transshipment Historic District and one of the adjoining piers is a contributing feature of the historic district. Construction activities on the oyster restoration site may adversely affect cultural resources. However, the restoration project will undergo a review with the New Jersey State Historic Preservation Officer in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 United States Code 470). If the project has potential impacts to listed resources, it would be designed and constructed with agency coordination to ensure that both short- and long-term impacts are mitigated. Therefore, the project is consistent with this rule.

7. Endangered or Threatened Wildlife or Plant Species Habitats (N.J.A.C. 7:7 – 9.36)

Endangered or threatened wildlife or plant species habitats are terrestrial and aquatic (marine, estuarine, or freshwater) areas known to be inhabited on a seasonal or permanent basis by or to be critical at any stage in the life cycle of any wildlife or plant identified as “endangered” or “threatened” species on official federal or state lists of endangered or threatened species, or under active consideration for state or federal listing. The definition of endangered or threatened wildlife or plant species habitats includes a sufficient buffer area to ensure continued survival of the population of the species as well as areas that serve an essential role as corridors for movement of endangered or threatened wildlife. Absence of such a buffer area does not preclude an area from being endangered or threatened wildlife or plant species habitat.

The project’s restoration plans have been carefully mapped so as to avoid areas where state-listed species were found during surveys, however prior to construction; a final survey of the restoration site will be completed to ensure that impacts to rare plants or animals will be avoided. If plants are found within the restoration site, BMPs will be utilized. If listed animals are found, plans will be made to avoid disturbances through time-of-year restrictions and other BMPs.

8. Special Hazard Areas (N.J.A.C 7:7 – 9.39)

Special hazard areas include areas with a known actual or potential hazard to public health, safety, and welfare, or to public or private property, such as the navigable air space around airports and seaplane landing areas, potential evacuation zones, and areas where hazardous substances as defined at N.J.S.A. 58:10-23.11b are used or disposed, including adjacent areas and areas of hazardous material contamination.

Naval Weapons Station Earle operates a receipts, storage, segregation and issue ordinance facility to support the Atlantic Fleet. Restoration activities would occur under the pier closer to land, away from naval ship activity and away from pier sections where ammunition is loaded and unloaded from warships at a safe distance from heavily populated areas. The station is considered an ideal restoration area and the presence of naval security forces and exclusion areas would likely result in a low disturbance of the restoration site. Therefore, the project is in compliance with this rule.

9. Excluded Federal Lands (N.J.A.C. 7:7-9.40)

Excluded federal lands are those lands, the use of which is, by law, subject solely to the discretion of or held in trust by the federal government, its officers or agents. These lands are excluded from the coastal zone as required by Section 304 of the Federal Coastal Zone Management Act.

Based on the findings of the analyses of how the project would affect each of the enforceable policies of the state's federally approved coastal management program, presented in this Coastal Zone Management Compliance Statement, and other findings of the HRE Ecosystem Restoration Feasibility Study integrated feasibility report and environmental assessment, the United States Army Corps of Engineers (USACE) finds that the project would result in no or minimal adverse impacts to the coastal zone resources of New Jersey. The project is fully consistent to the maximum extent practicable with the enforceable policies of the New Jersey Coastal Zone Management Program. Therefore, the project is in compliance with this rule.

10. Lands and Waters Subject to Public Trust Rights (N.J.A.C. 7:7-9.48)

Lands and waters subject to public trust rights are tidal waterways and their shores, including both lands now or formerly below the mean high water line, and shores above the mean high water line. Tidal waterways and their shores are subject to the Public Trust Doctrine and are held in trust by the State for the benefit of all the people, allowing the public to fully enjoy these lands and waters for a variety of public uses. Public trust rights include public access which is the ability of the public to pass physically and visually to, from, and along the ocean shore and other waterfronts subject to public trust rights and to use these lands and waters for activities such as navigation, fishing and recreation activities including, but not limited to, swimming, sunbathing, surfing, sport diving, bird watching, walking, and boating. Public trust rights also include the right to perpendicular and linear access.

On June 26, 2003, the USACE amended its regulations to establish a restricted area in waters adjacent to Naval Weapons Station Earle. Under the 2003 rule (68 Federal Register 37970), no persons, unauthorized vessels, or other unauthorized craft may enter the restricted area at any time. The regulations are necessary to safeguard Navy vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature, and to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area. The project will not affect public access to lands and waters subject to public trust rights; therefore, the project is in compliance with this rule.

B. Subchapter 11. Standards for conducting and reporting the results of an endangered or threatened wildlife or plant species habitat impact assessment and/or endangered or threatened wildlife species habitat evaluation.

See Section A, item 6.

C. Subchapter 12. General Water Areas

1. Living Shorelines (N.J.A.C. 7:7-12.23)

Living shorelines are shoreline management practices that address the loss of vegetated shorelines and habitat in the littoral zone by providing for the protection, restoration, or enhancement of these habitats. This is accomplished through the strategic placement of vegetation, sand, or other structural and organic material.

According to this rule, the project is defined as a living shoreline and is conditionally acceptable as part of a plan for restoration, creation, and enhancement of habitat and water quality functions and values of wetlands, wetland buffers, and open water areas. The project will comply with the requirements of the Wetlands Act of 1970, the Waterfront Development Law, Coastal Area Facility Review Act, and the rules of this chapter. The project will improve or maintain the values and functions of the ecosystem and will have a reasonable likelihood of success. Therefore, the project is in compliance with this rule.

D. Subchapter 14. General Location Rules

1. Basic Location Rule (N.J.A.C. 7:7 – 14.2)
   a. A location may be acceptable for development under N.J.A.C. 7:7-9, 12, 13, and 14, but the NJDEP may reject or conditionally approve the proposed development of the location as reasonably necessary to:
      i. Promote the public health, safety, and welfare;
      ii. Protect public and private property, wildlife, and marine fisheries; and
      iii. Preserve, protect, and enhance the natural environment.

The project is intended to protect, preserve, and restore wildlife habitat and the natural environment and is therefore in compliance with this rule.

E. Subchapter 16. Resource Rules

1. Marine Fish and Fisheries (N.J.A.C. 7:7-16.2)

Coastal actions that result in minimal feasible interference of the natural functioning of marine fish and fisheries, including the reproductive and migratory patterns of estuarine and marine estuarine dependent species of finfish and shellfish, are conditionally acceptable. The finfish and shellfish resources of New Jersey provide valuable recreational experiences for residents and interstate visitors. The recreational and commercial landings of these species also contribute substantially to the state's economy.

Local shellfish, finfish, and benthic macroinvertebrate population will be temporarily impacted during construction, principally through increase in sedimentation and turbidity. However, sedimentation, turbidity, and impacts to marine fish and fisheries from in-water restoration will be minimized to the fullest extent possible through the implementation of BMPs such as time-of-year restrictions, turbidity curtains, and other approved methods. Therefore, the project is consistent with this rule.

2. Water Quality (N.J.A.C. 7:7-16.3)

As required by Section 307(f) of the Federal Coastal Zone Management Act, 16 U.S.C.§§ 1451 et seq., federal, state, and local water quality requirements established under the Federal Clean Water Act, 33 U.S.C. §§ 1251 et seq., shall be the water resource standards of the coastal management program. These requirements include not only the minimum requirements imposed under the Clean Water Act, but also the additional requirements adopted by states, localities, and interstate agencies pursuant to Section 510 of the Clean Water Act and such statutes as the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

Standard construction stormwater BMPs will be implemented to protect water quality of surrounding water resources. As applicable, the following BMPs will be used:

- Minimize area of ground disturbance and vegetation clearing.
- Use the site's natural contours to minimize run-off and erosion.
- Do not expose the entire site at one time; avoid bare soils during rainy months.
- Stabilize erodible surfaces with mulch, compost, seeding, or sod.
- Use features such as silt fences, gravel filter berms, silt dikes, check dams, and gravel bags for interception and dissipation of turbid runoff water.
- Use silt or turbidity curtains during in-water construction to contain and control dissolved sediments.
- Use wetland mats for construction access within wetland areas to prevent soil compaction.
- Use vehicles with high flotation tires within wetland areas to prevent rutting and soil compaction.
- Complete in-water work during periods of low tide.
- Install cofferdams or stream diversions to isolate in-water construction areas.
- Use stabilized construction entrances for all ingress and egress points.

Therefore, the project is in compliance with this rule.

3. Surface Water Use (N.J.A.C. 7:7 – 16.4)

Surface water is the water in lakes, ponds, streams, rivers, bogs, wetlands, bays, and ocean that is visible on land. Coastal development shall conform to all applicable NJDEP requirements for surface water diversion.

The project will not cause adverse impacts to surface waters and will comply with all applicable Department requirements for surface water diversion. The oyster restoration measures proposed will contribute to water quality by mitigating shoreline erosion and filtering suspended solids and phytoplankton, which in turn will reduce turbidity. The

project is aligned with the intentions and policies of this rule and is therefore in compliance.

4. Vegetation (N.J.A.C. 7:7 – 16.7)

Vegetation is the plant life or total plant cover that is found on a specific area, whether indigenous or introduced by humans. Coastal development shall preserve, to the maximum extent practicable, existing vegetation within a development site. Coastal development shall plant new vegetation, particularly appropriate coastal species, native to New Jersey to the maximum extent practicable.

The project will eliminate any submerged aquatic macrophytes, if present, in bay bottom areas targeted for oyster restoration. Conversely, establishment of oyster reefs will provide water filtration and an attendant reduction in turbidity, which would provide long-term benefits to aquatic macrophytes. Therefore, the project is in compliance with this rule.

5. Air Quality (N.J.A.C. 7:7 – 16.8)

The protection of air resources refers to protection from air contaminants that injure human health, welfare, or property, and to attainment and maintenance of state and federal air quality goals and the prevention of degradation of current levels of air quality. Coastal development shall conform to all applicable state and federal regulations, standards, and guidelines and be consistent with the strategies of New Jersey's State Implementation Plan.

The proposed development will not result in any airborne emissions that will violate state or federal regulations. Emissions will be limited to exhaust from automobiles traveling to and from the site during construction and from construction equipment. The federal government regulates automobile emissions, while technological improvements in heating and cooling units have resulted in decreased emissions and increased efficiency. Minimal impacts to air quality resulting from construction equipment and airborne dust will result from construction activities, but these are considered short-term impacts and will not be present post construction. Therefore, the project complies with this rule.

6. Public Access (N.J.A.C. 7:7 – 16.9)

Public access to the waterfront is the ability of the public to pass physically and visually to, from, and along tidal waterways and their shores and to use such shores, waterfronts and waters for activities such as navigation, fishing, and recreational activities including, but not limited to, swimming, sunbathing, surfing, sport diving, bird watching, walking, and boating.

See Section A, item 9.

7. Scenic Resources and Design (N.J.A.C. 7:7 – 16.10)

Scenic resources include the views of the natural and/or built landscape. Large-scale elements of building and site design are defined as the elements that compose the developed landscape such as size, geometry, massing, height, and bulk structures.

The project will restore oysters and oyster habitat by placing spat on shell, and installing reef balls and wire cages/gabions below the water surface. The project will not affect scenic resources within the HRE; therefore, the project is consistent with this rule.

8. Buffers and compatibility of uses (N.J.A.C. 7:7 – 16.11)

Buffers are natural or man-made areas, structures, or objects that serve to separate distinct uses or areas. Compatibility of uses is the ability for uses to exist together without aesthetic or functional conflicts. Development shall be compatible with adjacent land and water uses to the maximum extent practicable.

The project will be compatible with adjacent land uses; therefore, the project is in compliance with this rule.

9. Traffic (N.J.A.C. 7:7 – 16.12)

Traffic is the movement of vehicles, pedestrians, or ships along a route. Coastal development shall be designed, located, and operated in a manner to cause the least possible disturbance to traffic systems.

The project will not adversely impact traffic in the surrounding street network. The safe orderly flow of traffic will be ensured at all times and all appropriate safety procedures, uniformed traffic directors, personnel, and devices will be implemented as necessary during construction. Traffic control measures, based on local and state requirements, will be incorporated into the contract specifications.

10. Solid and Hazardous Waste (N.J.A.C. 7:7 – 16.14)

Solid waste means any garbage, refuse, sludge or other waste material, including solid, liquid, semi-solid or contained gaseous material. A material is a solid waste if it is "disposed of" by being discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into ground or surface waters.

Oyster restoration is not expected to have any negative impacts from solid waste, toxic pollutants, hazardous materials or industrial materials. No materials will be removed from the site as a result of restoration. Construction activities, vessel movements, and prop wash may cause temporary resuspension of potentially contaminated sediments and a concomitant short-term increase in turbidity in nearby waters but these activities and their effects would be localized and short-term. BMPs will be used to minimize sediment transport and turbidity. In the long term, establishing oyster habitat would improve water quality and provide nutrient removal and denitrification services. No adverse impacts or threats to the environment or public health and safety are anticipated. Therefore, the project complies with this rule.