

Coastal Zone Management Act, 16 U.S.C. 1451 et seq., and Water Quality Certificates issued pursuant to Section 401 of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., when the approvals are sought in conjunction with any of the foregoing permit applications.

(b) The following types of activities are regulated under each of these laws:

1. CAFRA: The construction of any development defined in Section 3 of the Act (N.J.S.A. 13:19-3) or in N.J.A.C. 7:7-2.1, within the coastal area described in Section 4 of the Act (N.J.S.A. 13:19-4).

2. Wetlands Act of 1970: The draining, dredging, excavation, or deposition of material, and the erection of any structure, driving of pilings or placing of obstructions in any coastal wetlands which have been mapped or delineated pursuant to the Wetlands Act of 1970. A list of these maps and a full list of regulated activities appears in N.J.A.C. 7:7-2.2.

3. Waterfront Development Law: The filling or dredging of, or placement or construction of structures, pilings or other obstructions in any tidal waterway, or in certain upland areas adjacent to tidal waterways outside the area regulated under CAFRA. These requirements are fully explained in N.J.A.C. 7:7-2.3.

Amended by R.1994 d.378, effective July 18, 1994.  
See: 26 N.J.R. 918(a), 26 N.J.R. 1561(a), 26 N.J.R. 2934(a).

#### Law Review and Journal Commentaries

Watch Out for the CAFRA II Rules. Lewis Goldshore and Marsha Wolf, 159 N.J.L.J. 1196 (2000).

#### Case Notes

Validity. In re Loveladies Harbor, Inc., 176 N.J.Super. 69, 422 A.2d 107 (App.Div.1980), certification denied 85 N.J. 501, 427 A.2d 588 (1981).

Regulated activity without permit prior to promulgated order. Loveladies Prop. Owners Ass'n v. Raab, 137 N.J.Super. 179, 348 A.2d 540 (App.Div.1975).

Power of D.E.P. to regulate use of marshes and wetlands. Sands Point Harbor, Inc. v. Sullivan, 136 N.J.Super. 436, 346 A.2d 612 (App.Div.1975).

#### 7:7-1.2 (Reserved)

Repealed, R.1987 d.217, effective May 18, 1987.  
See: 18 N.J.R. 2156(a), 19 N.J.R. 861(b).

This section "Authority" was repealed.

#### 7:7-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Amusement pier" means an elevated, pile-supported structure located on a beach and/or tidal water, seaward of a bulkhead or boardwalk, and perpendicular to the mean high water line, on which amusements are located. For purposes of

this definition, "amusements" includes rides, games of skill or chance for prizes other than cash payoffs, vendors of toys and/or other merchandise. "Amusements" do not include games for cash payoffs, bars or restaurants.

"Beach" means a gently sloping area of sand or other unconsolidated material found on tidal shorelines, including ocean, inlet, bay and river shorelines, that extends landward from the mean high water line to either: the vegetation line; a man-made feature generally parallel to the ocean, inlet, bay or river waters such as a retaining structure, seawall, bulkhead, road or boardwalk, except that sandy areas that extend fully under and landward of an elevated boardwalk are considered to be beach areas; or the seaward or bayward foot of dunes, whichever is closest to the ocean, inlet, bay or river water.

"Beach berm" means the nearly horizontal part of the beach lying between the crest of the berm and the toe of the primary dune or first paved public right-of-way, whichever is more waterward. The berm is the sloping portion of the beach profile from the upper limit of wave up-rush to the lower limit of wave run-down at low tide.

"Bulkhead" means a vertical shore protection structure installed to withstand the forces of waves and currents. A bulkhead is not a "revetment" or a "gabion" as defined elsewhere in this section.

"CAFRA" means the Coastal Area Facility Review Act (N.J.S.A. 13:19-1 et seq.).

"Charitable conservancy" means a corporation or trust that meets the definition of a charitable conservancy at N.J.S.A. 13:8B-2 as amended.

"City of the fourth class" means a city as defined at N.J.S.A. 40A:6-4d which borders on the Atlantic Ocean and which is a seaside or summer resort.

"Coastal bluff" means a steep slope (greater than 15 percent) of consolidated (rock) or unconsolidated (sand, gravel) sediment which is adjacent to the shoreline or which is demonstrably associated with shoreline processes. The waterward limit of a coastal bluff is a point 25 feet waterward of the toe of the bluff face, or the mean high water line, whichever is nearest the toe of the bluff. The landward limit of a coastal bluff is the landward limit of the area likely to be eroded within 50 years, or a point 25 feet landward of the crest of the bluff, whichever is farthest inland. Steep slopes are isolated areas with slopes greater than 15 percent. All steep slopes associated with shoreline processes or adjacent to the shoreline and associated wetlands, or contributing sediment to the system, will be considered coastal bluffs.

"Coastal Permit" or "permit" means an authorization or permit issued by the Department under this chapter pursuant to any of the following statutes: the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq., the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq., or the Waterfront Development Law, N.J.S.A. 12:5-3.

“Commissioner” means the Commissioner of the Department of Environmental Protection or designated representative.

“Commercial development” means a development designed, constructed or intended to accommodate commercial or office uses. “Commercial development” shall include, but need not be limited to, any establishment used for the wholesale or retail sale of food, beverage or other merchandise, or any establishment used for providing professional, financial, or other commercial services.

“Conservation restriction” means a restriction, easement, covenant, or condition, in any deed, will or other instrument, other than a lease, executed by or on behalf of the owner of the land, appropriate to retaining land or water areas predominantly in their natural, scenic or open or wooded condition, or for conservation of soil or wildlife, or for outdoor recreation or park use, or as suitable habitat for fish or wildlife, to forbid or limit any or all:

1. Construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above the ground;
2. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials;
3. Removal or destruction of trees, shrubs or other vegetation;
4. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance;
5. Surface use except for the purposes permitting the land or water area to remain predominantly in its natural condition;
6. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or fish and wildlife habitat preservation; and/or
7. Other acts or uses detrimental to the retention of land or water areas according to the purposes of this chapter.

“Deck” means a horizontal platform that is not enclosed by windows, walls, doors, or screens and is not covered by a roof.

“Department” means the Department of Environmental Protection.

“Development” means any activity for which a Wetlands Act of 1970 or Waterfront Development Permit is required, including site preparation and clearing. Development, for an application under CAFRA, means the construction, relocation, or enlargement of the footprint of development of any building or structure and all site preparation therefor, the grading, excavation or filling on beaches and dunes, and shall include residential development, commercial development, industrial development, and public development. Develop-

ment under CAFRA and the Waterfront Development Law does not include repairs or maintenance such as replacing siding, windows or roofs, unless such repairs or maintenance are associated with enlargements which are not exempt under CAFRA pursuant to N.J.A.C. 7:7-2.1(c)4 or the Waterfront Development Law pursuant to N.J.A.C. 7:7-2.3(d). Development under CAFRA does not include debris removal or cleanup provided such activities do not involve excavation, grading, or filling on beaches and dunes.

“Dune” means a wind-or wave-deposited or man-made formation of sand that lies generally parallel to and landward of the beach, and between the upland limit of the beach and foot of the most inland slope of the dune. Dune includes the foredune, secondary and tertiary dune ridges, and all landward dune ridges and mounds, as well as man-made dunes where they exist. A small mound of loose, windblown sand found in a street or on part of a structure as a result of storm activity is not considered to be a dune.

“Dwelling unit” means a house, townhouse, apartment, cooperative, condominium, cabana, hotel or motel room, a patient/client room in a hospital, nursing home or other residential institution, mobile home, campsite for a tent or recreational vehicle, floating home, or any other habitable structure of similar size and potential environmental impact, except that dwelling unit shall not mean a vessel as defined in section 2 of P.L. 1962, c.73 (N.J.S.A. 12:7-34.37).

“Educational facility” means an elementary or secondary school.

“Excavation” means the extraction of sand, gravel, earth or any other material.

“Filling” means the depositing of sand, gravel, earth or any other material.

“Floating home” means any waterborne structure designed and intended primarily as a permanent or seasonal dwelling, not for use as a recreational vessel, which will remain stationary for more than 10 days.

“Footprint of development” means the vertical projection to the horizontal plane of the exterior of all exterior walls of a structure.

“Gabion” means a shore protection structure that is comprised of wire mesh basket(s) or mattress(es) filled with rock and used in multiples as a structural unit installed to withstand the forces of waves and currents. A gabion is not a “bulkhead” or a “revetment” as defined elsewhere in this section.

“Governmental agency” means the Government of the United States, the State of New Jersey, or any other state, or a political subdivision, authority, agency or instrumentality thereof, and shall include any interstate agency or authority.

“Grace period” means the period of time afforded under the Grace Period Law, N.J.S.A. 13:1D-125 et seq., for a person to correct a minor violation in order to avoid imposition of a penalty that would otherwise be applicable for such violation.

“Grading” means leveling off to a smooth horizontal or sloping surface.

“Habitable structure” means a structure that is able to receive a certificate of occupancy from the municipal construction code official, or is demonstrated to have been legally occupied as a dwelling unit for the most recent five year period.

“Industrial development” means a development that involves a manufacturing or industrial process, and shall include, but is not limited to, electric power production, food and food by-product processing, paper production, agricultural production, chemical processes, storage facilities, metallurgical processes, mining and excavation processes, and processes using mineral products.

“Linear development” means a development with the basic function of connecting two points, such as a road, drive, public walkway, railroad, sewerage pipe, stormwater management pipe, gas pipeline, water pipeline, or electric, telephone or other transmission lines.

“LURP (Land Use Regulation Program) application form” means an application form used when applying for a permit or exemption pursuant to the Coastal Area Facility Review Act, Waterfront Development Law, Wetlands Act of 1970, Flood Hazard Area Control Act, or Freshwater Wetlands Protection Act, or when applying for Water Quality Certification and Federal Consistency Determinations. This form includes blocks for information regarding the permit application type, project description, project site location, property owner certification and names and addresses of the applicant and the applicant’s agent.

“Man-made lagoon” means an artificially created linear waterway sometimes branched, ending in a dead end with no significant upland drainage. Lagoons have been created through dredging and filling of wetlands, bay bottom and other estuarine water areas for the purpose of creating waterfront lots for residential development adjacent to the lagoon. A natural waterway which is altered by activities including, but not limited to, filling, channelizing, or bulkheading shall not be considered a man-made lagoon, nor shall a bulkheaded boat slip be considered a lagoon.

“Mean high water” (MHW) is a tidal datum that is the arithmetic mean of the high water heights observed over a specific 19-year Metonic cycle (the National Tidal Datum Epoch). For the New Jersey shore, the two high waters of each tidal day are included in the mean. This datum is available from the Department’s Bureau of Tidelands.

“Mean high water line” (MHWL) is the intersection of the land with the water surface at the elevation of mean high water. The elevation of mean high water varies along the ocean front and the tidal bays and streams in the coastal zone.

(Note: For the above two definitions, for practical purposes, the mean high water line is often referred to as the “ordinary” high water line, which is typically identified in the field as the limit of wet sand or the debris line on a beach, or by a stain line on a bulkhead or piling. However, for the purpose of establishing regulatory jurisdiction pursuant to the Coastal Area Facility Review Act (CAFRA) and the Waterfront Development Act, the surveyed mean high water elevation will be utilized.)

“Person” means any corporation, company, association, society, firm, partnership, individual, government agency, or joint stock company.

“Pesticide” means any substance defined as a pesticide pursuant to the provisions of N.J.A.C. 7:30.

“Porch” means a covered or uncovered entrance, directly connected to a residential dwelling.

“Program” means the Land Use Regulation Program in the Department of Environmental Protection.

“Property as a whole” means all property assembled as one investment or to further one development plan. The property as a whole may include more than one municipal tax block or lot. The property as a whole may also include blocks or lots that were previously sold or developed, if those blocks or lots and the remaining unsold or undeveloped blocks or lots were part of one investment or development plan. In determining the property as a whole in a particular case, the Department shall consider existing legal precedent regarding what constitutes “property as a whole” at the time of the determination.

“Public development” means a solid waste facility, including incinerators and landfills, wastewater treatment plant, public highway, airport including single or multi-air strips, an above or underground pipeline designed to transport petroleum, natural gas, or sanitary sewage, and a public facility, and shall not mean a seasonal or temporary structure related to the tourism industry, an educational facility or power lines. “Public development” does not have to be publicly funded or operated.

“Public highway” means a “public highway” as defined in section 3 of P.L. 1984, c.73 (N.J.S.A. 27:1B-3), namely public roads, streets, expressways, freeways, parkways, motorways and boulevards, including bridges, tunnels, overpasses, underpasses, interchanges, rest areas, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at grade or not at grade, and any facilities, equipment, property, rights-of-way, easements and interests therein

needed for the construction, improvement and maintenance of highways.

“Qualifying municipality” means a municipality that qualifies under N.J.S.A. 52:27D-178 et seq. to receive State aid for the purpose of enabling such municipalities to maintain and upgrade municipal services and offset local property taxes. Under N.J.S.A. 52:27D-178 et seq., the Department of Community Affairs (DCA) establishes a list of qualifying municipalities for each State fiscal year. DCA’s list of qualifying municipalities may be obtained on request from the Department’s Land Use Regulation Program, PO Box 439, Trenton, New Jersey 08625, (609)292-0060.

“Regulated activity” or “activity” means any activity for which a permit is required under CAFRA, the Wetlands Act of 1970 or Waterfront Development Law, and shall also include the terms “project” and “development”.

“Regulated wetland” means any wetland which has been mapped and the map promulgated pursuant to the Wetlands Act of 1970.

“Residential development” means a development that provides one or more dwelling units.

“Revetment” means a sloped shore protection structure consisting of a facing made of stone, placed on a bank, bluff, or shoreline to withstand the forces of waves and currents. A revetment is not a “gabion” or “bulkhead” as defined elsewhere in this section.

“Seasonal or temporary structures related to the tourism industry” means lifeguard stands and associated temporary equipment storage containers, picnic tables, benches and canopies, beach badge sheds, wooden walkways, stage platforms, and portable restrooms, which remain in place only during the period from May 1 through October 31, and provided that the placement of such structures does not involve the excavation, grading or filling of a beach or dune.

“Site” means the lot or lots upon which a proposed development is to be constructed.

“Site preparation” means physical activity which is an integral part of a continuous process of land development or re-development for a particular development which must occur before actual construction of that development may commence. It does not include the taking of soil borings, performing percolation tests, or driving of less than three test pilings.

“Structure” means any assembly of materials above, on or below the surface of the land or water, including but not limited to buildings, fences, dams, pilings, footings, breakwaters, culverts, pipes, pipelines, piers, roads, railroads, bridges, and includes floating structures.

“Tidelands instrument” means a written document conveying, leasing or licensing lands owned or claimed to be owned as present or formerly flowed tidelands by the State of New

Jersey to public entities or private interests pursuant to N.J.S.A. 12:3-1 et seq. and N.J.S.A. 13:1B-13 et seq. Tidelands instruments include licenses, long-term leases, conveyances (often called grants), and management agreements. These documents are recorded in the office of the clerk of the county or registrar of deeds and mortgages of the county in which the property is located.

“Waterward side of development” means the area of the site located between a tidal water body and a line(s) drawn through point(s) of the footprint of the building closest to the water, and parallel to the water body, which line extends to the property boundaries. (see Appendix A, herein incorporated by reference).

Amended by R.1987 d.217, effective May 18, 1987.

See: 18 N.J.R. 2156(a), 19 N.J.R. 861(b).

Amended Division and Permit; added pesticide.

Amended by R.1994 d.378, effective July 18, 1994.

See: 26 N.J.R. 918(a), 26 N.J.R. 1561(a), 26 N.J.R. 2934(a).

Amended by R.1995 d.550, effective October 16, 1995.

See: 27 N.J.R. 1005(a), 27 N.J.R. 3976(a).

Amended by R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Rewrote the section.

Amended by R.2003 d.44, effective January 21, 2003.

See: 34 N.J.R. 2388(a), 35 N.J.R. 418(a).

Added “Property as a whole”.

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

In “Dune”, inserted “and all landward dune ridges and mounds” preceding “as well as man-made dunes”.

Amended by R.2006 d.142, effective April 17, 2006.

See: 37 N.J.R. 4108(a), 38 N.J.R. 1657(a).

Added definitions “beach berm” and “charitable conservancy”; updated definition “seasonal or temporary structures related to the tourism industry”.

Amended by R.2007 d.242, effective August 20, 2007.

See: 38 N.J.R. 2907(a), 39 N.J.R. 3517(a).

Added definition “Grace Period”.

#### Law Review and Journal Commentaries

Watch Out for the CAFRA II Rules. Lewis Goldshore and Marsha Wolf, 159 N.J.L.J. 1196 (2000).

#### 7:7-1.4 Standards for evaluating permit applications

(a) All applications for coastal permits (as defined in N.J.A.C. 7:7-1.3), water quality certificates, and Federal consistency determinations shall be approved, conditionally approved or denied pursuant to the Department’s Coastal Zone Management rules, N.J.A.C. 7:7E. In addition, applications for water quality certificates will be reviewed on the basis of other applicable State laws, including the State water quality standards.

(b) The Department shall not issue a permit under CAFRA unless the Department makes the findings required by N.J.S.A. 13:19-10. Such findings shall be made in accordance with N.J.A.C. 7:7E-1.5(b).

Amended by R.1987 d.217, effective May 18, 1987.

See: 18 N.J.R. 2156(a), 19 N.J.R. 861(b).

Deleted Policies from text.

Amended by R.1994 d.378, effective July 18, 1994.

See: 26 N.J.R. 918(a), 26 N.J.R. 1561(a), 26 N.J.R. 2934(a).

Amended by R.2001 d.81, effective March 5, 2001.  
See: 32 N.J.R. 352(a), 32 N.J.R. 682(a), 33 N.J.R. 843(a).  
Added designation to first paragraph and added (b).  
Amended by R.2004 d.43, effective January 20, 2004.

See: 35 N.J.R. 2801(a), 36 N.J.R. 442(a).  
In (a), substituted "Coastal Zone Management rules" for "Rules on Coastal Zone Management"; rewrote (b).

**Law Review and Journal Commentaries**

Watch Out for the CAFRA II Rules. Lewis Goldshore and Marsha Wolf, 159 N.J.L.J. 1196 (2000).

**Case Notes**

Implementing rules propounded by Department of Environmental Protection (DEP), with respect to Coastal Area Facility Review Act (CAFRA), did not incorporate, expressly or impliedly, requirement that DEP make specific findings required by statute. In the Matter of the Protest of Coastal Permit Program Rules, 807 A.2d 198, 354 N.J.Super. 293.

Conditional approval of construction permit for large scale development, permitting no construction until statutory standards satisfied, improper as not authorized by enabling legislation and as being a decision deficient in essential findings (citing former N.J.A.C. 7:7D-2.3). *Crema v. Dept. of Environmental Protection*, 182 N.J.Super. 445, 442 A.2d 630 (App.Div.1982), affirmed as modified 94 N.J. 286, 463 A.2d 910 (1983).

Application for waterfront development permit; failure to comply with rules for coastal zone management. *Haldone v. DEPE*, 94 N.J.A.R.2d (EPE) 2.

**7:7-1.5 Permits and permit conditions**

(a) No person shall undertake or cause, suffer, allow or permit any regulated activity without a permit issued by the Department in accordance with this chapter.

1. Potential applicants may request a written jurisdictional determination from the Department to determine the applicability of the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq., the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq., and the Waterfront Development Law, N.J.S.A. 12:5-3 et seq., to a proposed project. A jurisdictional determination is optional. If a potential applicant is unsure whether a particular activity is regulated, the Department encourages the potential applicant to obtain a written jurisdictional determination prior to commencing work since unauthorized regulated activities may result in substantial fines or other penalties.

2. An application for a jurisdictional determination shall contain the following:

- i. A completed jurisdictional determination/preapplication request form including a written description of the site and the proposed development including the dimensions, number, and uses of proposed structures; the length of proposed linear development; and the number of parking spaces proposed;
- ii. A copy of the site plan or survey for the proposed project; and
- iii. A copy of a USGS quad map or local street map with the project site clearly outlined.

(b) The following conditions shall apply to all coastal permits. Failure to comply with any of the following shall constitute a violation.

1. A permittee shall notify the Department in writing, at least three working days prior to the beginning of construction on the site or site preparation.

2. A permittee shall notify the Department in writing within five working days prior to commencement of operation of a CAFRA development. At this time, the permittee shall also certify that all conditions of the permit that must be met prior to operation of the development have been met.

3. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction, structure or structures. Neither the State nor the Department shall, in any way, be liable for the loss of life or property which may occur by virtue of the activity or development resulting from any permit.

4. A permittee shall allow the authorized representatives of the Department free access to the site at all times when construction activity is taking place, and at other times upon notice to the permittee. The permittee shall provide free of charge to the Department all of its equipment reasonably necessary for inspection of the site.

5. No change in plans or specifications upon which a permit is issued shall be made except with the prior written permission of the Department, in accordance with N.J.A.C. 7:7-4.10.

6. The notice of authorization shall be posted prominently at the site during construction and a copy of the permit and approved plans shall be kept on the construction site and shall be exhibited upon request to any person.

7. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of the permit. The Department may, upon discovery of such unanticipated adverse effects, and upon the failure of the permittee to submit a report thereon, notify the permittee of its intent to suspend the permit, pursuant to N.J.A.C. 7:7-4.11.

8. Plans and specifications in the application and conditions imposed by a permit shall remain in full force and effect so long as the proposed development or any portion thereof is in existence, unless modified pursuant to N.J.A.C. 7:7-4.10.

9. If any condition or a permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect the public interest.

10. A permit is subject to suspension or revocation for violations of its terms and conditions. A permittee shall, upon receipt of a notice of suspension or revocation, comply with the terms of such notice and shall, if required, cease such construction.

11. The Department may issue a modified permit in accordance with N.J.A.C. 7:7-4.10.

12. If a permit condition requires the dedication of land to a political subdivision for open space and/or recreational or other uses, the permittee shall, within 45 days of the political subdivision's decision whether or not to accept the land, furnish proof to the Department of the political subdivision's decision with respect to such dedication, or the permit may be revoked as provided in N.J.A.C. 7:7-4.11.

13. In the event of rental, lease, sale or other conveyance of the site by the permittee, the permit shall be continued in force and shall apply to the new tenant, lessee, owner or assignee so long as there is no change in the site, proposed construction or proposed use of the development, as described in the original application. No such change shall be implemented unless an application for a permit modification is filed pursuant to N.J.A.C. 7:7-4.10.

14. If a permit contains a condition that must be satisfied prior to the commencement of construction, the permittee must comply with such condition(s) within the time required by the permit or, if no time specific requirement is imposed, then within six months of the effective date of the permit, or provide evidence satisfactory to the Department that such condition(s) cannot be satisfied.

15. If required by the Department as a permit condition, the permit shall be filed with the clerk of the county court in which the project site is located as notice to prospective purchasers.

16. A permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29 (Noise control).

17. Development which requires soil disturbance, the creation of drainage structures, or changes in natural contours shall conduct operations in accordance with the latest revised version of "Standards for Soil Erosion Sediment Control in New Jersey," promulgated by the New Jersey State Soil Conservation Committee, pursuant to the Soil Erosion and Sediment Control Act of 1975, N.J.S.A. 4:24-42 et seq. and N.J.A.C. 2:90-1.3 through 1.14. These standards are hereby incorporated by reference.

18. If the Department determines that a conservation restriction, as defined at N.J.A.C. 7:7-1.3, is necessary to protect the public health, safety, and welfare, or to protect wildlife and/or fisheries, or to otherwise preserve, protect, and enhance the natural environment, the permittee shall, prior to site preparation, submit to the Department proof that such a conservation restriction has been recorded in the office of the clerk of the county or the registrar of deeds and mortgages of the county in which the development site is located. The conservation restriction shall be in the form and terms appropriate to the property as specified and approved by the Department, and shall run with the

property and be binding upon the property owner and the successors in interest in the property or in any part thereof;

(c) A permit shall be valid authority to commence construction of a development for a period of five years from its date of issuance. Where construction has commenced within this five year period, the permit, with the exception of permits issued for activities located below the mean high water line, shall upon written authorization of the Department be valid, as long as construction continues, until the project is completed subject to the provisions of (c)1 and 2 below.

1. If construction continues beyond the five year period, and then, prior to completion of the project, stops for a cumulative period of one year or longer the permit shall expire, except for projects of unusual size or scope or for projects which are delayed due to circumstances beyond the permittee's control (such as a delay in the financing of a public works project), in which case, upon the request of the applicant prior to the expiration of the original permit, the permit may be extended for a total of 10 years from the original effective date.

2. All requests for authorization to continue construction beyond the expiration of a permit shall be submitted to the Department no later than 20 business days prior to the expiration date of the permit.

3. All permits issued of activities occurring below the mean high water line shall be effective for a fixed term not to exceed five years.

4. All water quality certificates and Federal consistency determinations issued in conjunction with a State permit will be in effect for the lifetime of the associated State permit.

5. A water quality certificate not issued in conjunction with other State permits shall be effective for five years or for the original duration of the underlying Federal permit (without renewals), whichever is shorter.

(d) The duration of validity for coastal general permits is found at N.J.A.C. 7:7-7.3(k).

(e) The Department may, after public notice, issue a general permit for activities which are substantially similar in nature and cause only minimal individual and cumulative environmental impacts. The process for issuance of General Permits and the process for authorizing various activities under the issued General Permits is detailed at N.J.A.C. 7:7-7.

Amended by R.1987 d.217, effective May 18, 1987.

See: 18 N.J.R. 2156(a), 19 N.J.R. 861(b).

Substantially amended.

Amended by R.1994 d.378, effective July 18, 1994.

See: 26 N.J.R. 918(a), 26 N.J.R. 1561(a), 26 N.J.R. 2934(a).

Amended by R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Rewrote the section.

Amended by R.2006 d.142, effective April 17, 2006.

See: 37 N.J.R. 4108(a), 38 N.J.R. 1657(a).

Added (a)1 and 2.

**Law Review and Journal Commentaries**

Watch Out for the CAFRA II Rules. Lewis Goldshore and Marsha Wolf, 159 N.J.L.J. 1196 (2000).

**Case Notes**

Purchaser was not bound to restriction on its land that was imposed by Department of Environmental Protection (DEP) as part of coastal permit issued to owner's predecessor in title; restriction could not be found by diligent search of record title, deed from vendor to purchaser did not contain any condition concerning water-dependency, and any environmental impact would be limited in scope. *Island Venture Associates v. New Jersey Dept. of Environmental Protection*, 849 A.2d 1228.

Expiration of construction permit issued by (DEP) did not preclude application of permit condition requiring Department approval for connection to borough sewer system. *Mutschler v. Envir. Protection*, 337 N.J.Super. 1 (A.D.2001).

Permit granted while permit application was still pending was invalid. In re Waterfront Development Permit No. WD88-0443-1, Lincoln Harbor Final Development, Weehawken, Hudson County, 244 N.J.Super. 426, 582 A.2d 1018 (A.D.1990) certification denied 126 N.J. 320, 598 A.2d 880.

Conditional approval of construction permit for large scale development, permitting no construction until statutory standards satisfied, improper. (citing former N.J.A.C. 7:7D-2.5). *Crema v. Dept. of Environmental Protection*, 182 N.J.Super. 445, 442 A.2d 630 (App.Div.1982), affirmed as modified 94 N.J. 286, 463 A.2d 910 (1983).

**7:7-1.6 Provisional permits**

(a) The Department may issue a provisional permit if it finds that the beginning of construction prior to the completion of the full permit review process is necessary to meet the regulatory or funding requirements of a Federal or State agency.

(b) The issuance of a provisional permit shall not exempt the permittee from any of the requirements of this chapter. A

permit application must be submitted before a provisional permit can be issued, and all permit review procedures shall be complied with following issuance of the provisional permit.

Amended by R.1994 d.378, effective July 18, 1994.  
See: 26 N.J.R. 918(a), 26 N.J.R. 1561(a), 26 N.J.R. 2934(a).

**Law Review and Journal Commentaries**

Watch Out for the CAFRA II Rules. Lewis Goldshore and Marsha Wolf, 159 N.J.L.J. 1196 (2000).

**7:7-1.7 Emergency permit authorization**

(a) The Department may issue an emergency permit authorization if it determines that there is an imminent threat to lives or property if regulated construction activities are not immediately commenced. Potential for severe environmental degradation will also constitute a basis for issuing an emergency permit authorization. The procedure for obtaining an emergency permit authorization is as follows:

1. The requesting party shall notify the Department's Bureau of Coastal and Land Use Enforcement by telephone of any situation which may constitute an imminent threat to lives, property or the environment. In response to this notification, the Bureau of Coastal and Land Use Enforcement will inspect the subject site whenever feasible to determine the condition of the property, and the extent of the imminent threat. The determination of imminent threat will be made solely by the Department, based on the condition of the property at the time of inspection. The findings of the inspection will be provided to the Land Use Regulation Program, together with a recommendation regarding the request for emergency permit authorization.

7. Any development that has an existing, valid CAFRA permit dated prior to July 19, 1994 provided that construction, as defined at N.J.A.C. 7:7-2.1(c)1iii, begins prior to the expiration date of the permit and continues with no cumulative lapses in construction activity of more than one year.

8. The expansion of an existing, functional amusement pier, provided such expansion does not exceed the footprint of the existing, functional amusement pier by more than 25 percent, and provided such expansion is located in the area beyond 150 feet landward of the mean high water line, beach or dune, whichever is most landward.

(d) Any exemption based upon on-site construction, as defined at N.J.A.C. 7:7-2.1(c)1iii on or before September 19, 1973 expired on July 19, 1997.

(e) A development shall no longer be exempt from the requirement of obtaining a CAFRA permit if significant changes are made to the development which would void the approvals listed at (c)1 and 2 above, or which would result in additional impacts to Special Areas, as defined at N.J.A.C. 7:7E-3, which additional impacts are greater than the impacts associated with the originally exempt development.

(f) Development that is exempt from CAFRA requires no certification or approval from the Department, except as may be required by other programs administered by the Department. Any person who wishes may request from the Department a written determination of a development's exemption from the requirements of this subchapter.

1. For an exemption pursuant to (c)1 and 2 above, the following shall be submitted:

i. A folded copy of the approved site plan or subdivision plan, a copy of the resolution approving the site plan or subdivision, or a copy of the building permit and approved plan and soil conservation district approval where required;

ii. In the event that the final municipal building or construction permit expired and the permit was renewed or a new permit was obtained for the same project, the development will remain exempt provided construction began by July 18, 1997. To make such a determination, the Department will require documentation that the new permit authorized exactly the same construction as the original permit, such as a copy of the original building permit with approved plan and soil conservation district approval where required and a copy of the new building permit with approved plan depicting the exact development as the original;

iii. The fee specified at N.J.A.C. 7:7-10.4(e); and

iv. A completed LURP application form.

2. For an exemption pursuant to (c)3, 4, and 5 above, the following shall be submitted:

i. Plans showing the existing structures and site conditions with locations and dimensions, and all proposed structures, filling, grading, excavation and clearing;

(1) For exemptions based on fire, storm, natural hazard or Act of God, the site plans submitted shall also indicate all preexisting structures to be rebuilt.

ii. Photographs of the site;

iii. The fee specified at 7:7-10.4(e); and

iv. A completed LURP application form.

3. For an exemption pursuant to (c)8 above, the following shall be submitted:

i. A description of the location of the amusement pier including county, municipality, lot(s) and block(s);

ii. A copy of a site plan showing the location of the existing, functional amusement pier and the proposed location of the expansion;

iii. Documentation concerning the size of the footprint of the existing functional amusement pier and the size of the proposed expansion;

iv. Photographs of the site;

v. The fee specified at N.J.A.C. 7:7-10.4(e); and

vi. A completed LURP application form.

Amended by R.1986 d.461, effective November 17, 1986.

See: 18 N.J.R. 1772(a), 18 N.J.R. 2326(a).

(b)4viii added.

Amended by R.1987 d.217, effective May 18, 1987.

See: 18 N.J.R. 2056(a), 19 N.J.R. 861(b).

Substantially amended.

Amended by R.1988 d.136, effective March 21, 1988.

See: 19 N.J.R. 807(a), 20 N.J.R. 643(b).

(b)6 substantially amended.

Amended by R.1994 d.378, effective July 18, 1994.

See: 26 N.J.R. 918(a), 26 N.J.R. 1561(a), 26 N.J.R. 2934(a).

Petition for Rulemaking.

See: 27 N.J.R. 769(a), 27 N.J.R. 1696(b).

Amended by R.1995 d.550, effective October 16, 1995.

See: 27 N.J.R. 1005(a), 27 N.J.R. 3976(a).

Amended by R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Rewrote the section.

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

In (f), amended the N.J.A.C. references in 1iii, 2iii, and 3v.

Amended by R.2006 d.142, effective April 17, 2006.

See: 37 N.J.R. 4108(a), 38 N.J.R. 1657(a).

In (b)8ii, substituted "September 19" for "September 1" and deleted "(the effective date of CAFRA)".

#### Case Notes

Department of Environmental Protection's asserted jurisdiction over development in upland areas of a coastal region was preempted by a Coastal Area Facility Review Act exemption. *Last Chance Development Partnership v. Kean*, 232 N.J.Super. 115, 556 A.2d 796 (A.D.1989) certification granted 117 N.J. 135, 564 A.2d 860, affirmed 119 N.J. 425, 575 A.2d 427.

Proposed paved parking lot of more than three acres in coastal area constituted "public facility" and "road, airport, or highway construction" under Act and project was therefore subject to review. In *Re: DEP Reg. N.J.A.C. 7:7-2.1(b)1.iii*, 214 N.J.Super. 579, 520 A.2d 794 (App.Div.1987) certification denied 107 N.J. 134, 526 A.2d 199 (1988).

CAFRA definition of "facilities" includes cabanas. State, Dept. of Environmental Protection v. Stavola, 206 N.J. Super. 213, 502 A.2d 63 (App. Div. 1985) reversed 103 N.J. 425, 511 A.2d 622 (1986).

### 7:7-2.2 Wetlands

(a) Wetlands permits are required for all activities in coastal wetlands delineated and mapped pursuant to the Wetlands Act of 1970 including, but not limited to:

1. The cultivation and harvesting of naturally occurring agricultural or horticultural products. This provision shall not apply to the continued production of commercial salt hay or other agricultural crops on lands utilized for these purposes on or before April 13, 1972;
2. The excavation of an individual mooring slip;
3. The maintenance or repair of bridges, roads, highways, railroad beds or the facilities of any utility or municipality. This provision shall not apply to emergency repairs necessitated by a natural disaster or a sudden and unexpected mechanical, electrical or structural failure. Written notification of such repairs shall be provided to the Program within seven days after their initiation;
4. The construction of catwalks, piers, docks, landings, footbridges and observation decks;
5. The installation of utilities;
6. Excavation of boat channels and mooring basins;
7. The construction of impoundments;
8. The construction of sea walls;
9. The diversion or appropriative use of water;
10. The use of pesticides, except those applied to the skin or clothing for personal use;
11. Driving or causing to pass over or upon wetlands, any mechanical conveyance which may alter or impair the natural contour of the wetlands or the natural vegetation; and
12. Filling, excavation or the construction of any structure.

(b) The following activities are prohibited on regulated wetlands:

1. Placing, depositing or dumping any solid waste, garbage, refuse, trash, rubbish or debris;
2. Dumping or discharging treated or untreated domestic sewage or industrial wastes, either solid or liquid;
3. Applying any pesticide on areas containing significant stands of high vigor *Spartina alterniflora* (Salt-marsh cordgrass), *Zizania aquatica* (Wildrice), *Typha* sp. (Cattail), and *Scirpus americanus* (common threesquare) as shown generally on wetlands maps;
4. The storage or disposal of pesticides;
5. The application of persistent pesticides.

(c) The Wetlands Order promulgated by the Commissioner of Environmental Protection in April 1972, any amendments thereto, and these rules shall be applicable only in those areas shown waterward of the upper wetland boundary on the following wetlands maps:

#### 1. Middlesex County:

574-2082  
574-2088  
581-2082  
581-2088  
581-2100  
581-2106  
581-2112  
581-2118  
588-2076  
588-2082  
588-2106  
588-2112  
588-2118  
595-2070  
595-2076  
595-2082  
595-2088  
595-2094  
595-2106  
602-2064  
602-2070  
602-2076  
602-2082  
602-2088  
602-2094  
602-2100  
602-2106  
609-2094  
609-2100  
609-2106

#### 2. Monmouth County:

455-2160  
455-2166  
462-2160  
462-2166  
462-2172  
462-2154  
469-2160  
469-2172  
469-2178  
476-2166  
476-2172  
476-2178  
483-2172  
490-2166  
490-2172  
490-2178  
497-2166  
497-2172  
518-2184  
532-2178  
539-2154  
539-2160  
539-2166  
539-2172  
539-2178  
539-2184  
539-2190  
546-2154  
546-2160  
546-2172  
546-2178

2. If the Department intends to comment on the development application prior to the Planning Board's taking action on the application, it shall provide the Planning Board with written comments within 30 days after receipt by the Department of notice under (h)1 above. The Department's comments may include suggestions regarding how the development should be modified in order to meet the requirements of the Long Branch Redevelopment Zone Permit.

3. The applicant shall provide notice, via certified mail, to the Land Use Regulation Program, Supervisor of the Monmouth County Region, NJ Department of Environmental Protection, PO Box 439, Trenton, New Jersey 08625-0439, of the date of the Planning Board hearing on the development application at least 10 days prior to the hearing.

4. The applicant shall provide notice of the preliminary and final Planning Board approvals to the Land Use Regulation Program, Supervisor of the Monmouth County Region, NJ Department of Environmental Protection, PO Box 439, Trenton, New Jersey 08625-0439, within seven days of the Planning Board's adoption of each memorializing resolution. This notice shall include a copy of the approved development plan(s) and of the resolution.

5. If the Department determines that the Long Branch Redevelopment Zone Permit under this section is not applicable and that a CAFRA individual permit, general permit or permit-by-rule is instead required, the Department shall, within 45 days of its receipt under (h)4 above of notice of preliminary and final Planning Board approval, so notify the applicant and the Planning Board.

(i) The notification requirements for developments within the Redevelopment Zone of the City of Long Branch not requiring Planning Board approval are as follows:

1. The City Council or the Redevelopment Agency of the City of Long Branch shall provide notice to the Land Use Regulation Program, Supervisor of the Monmouth County Region, NJ Department of Environmental Protection, PO Box 439, Trenton, New Jersey 08625-0439, that a development within the Redevelopment Zone is under consideration by the City Council or Redevelopment Agency 90 days prior to the solicitation of bids for construction of the development. This notice shall include a copy of the development plan(s).

2. If the Department intends to comment for the purpose of suggesting modifications to the development plan(s), it shall provide the City Council or the Redevelopment Agency with written comments within 30 days after receipt by the Department of notice under (i)1 above.

3. If the Department determines that the Long Branch Redevelopment Zone Permit under this section is not applicable and that a CAFRA individual permit,

general permit or permit-by-rule is instead required, the Department shall, within 90 days of its receipt under (i)1 above of notice that a development is under consideration by the City Council or the Redevelopment Agency, so notify the City Council or the Redevelopment Agency.

(j) The Department shall publish notice in the DEP Bulletin of its decision under (h)5 or (i)3 above that the Long Branch Redevelopment Zone Permit is applicable or inapplicable.

(k) Subject to the limitation on third-party hearing rights specified in (k)5 below, any interested person who considers himself or herself aggrieved by a decision of the Land Use Regulation Program under (h)5 or (i)3 above may, within 10 days of publication of such decision in the DEP Bulletin, appeal to the DEP Commissioner by submitting a written request for a hearing addressed to the Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Department of Environmental Protection, 401 East State Street, PO Box 402, Trenton, New Jersey 08625-0402 and including a completed "Administrative Hearing Request Checklist and Tracking Form for Permits" incorporated herein by reference as chapter Appendix A.

1. The request for a hearing shall include the appropriate Department file number and, where the request is submitted by someone other than the applicant, evidence that a copy of the hearing request has been mailed to the applicant.

2. The request for a hearing shall include a statement describing, in detail, how the person submitting the request is aggrieved by the decision, and which findings of fact and conclusions of law are being challenged.

3. The person submitting the request for a hearing shall mail a copy of the request to the Monmouth County Clerk and the City of Long Branch Clerk, and shall include proof of such mailing with the hearing request submitted to the Department.

4. A hearing request may include a request that the permit be stayed.

5. Nothing in this subsection shall be construed to provide a right to an adjudicatory hearing in contravention of N.J.S.A. 52:14-3.1 through 3.3 (P.L. 1993, c.359).

6. The procedures set forth at N.J.A.C. 7:7-5.2 through 5.4 shall govern the response to the appeal request, action on appeal request, and review of the revised application to settle appeal.

New Rule, R.1998 d.108, effective February 17, 1998.

See: 29 N.J.R. 3920(a), 30 N.J.R. 645(a).

Recodified from N.J.A.C. 7:7-7.5 by R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Former N.J.A.C. 7:7-7.4, Permits-By-Rule, recodified to N.J.A.C. 7:7-7.2.

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

## Law Review and Journal Commentaries

When to Redevelop. Peter A. Buchsbaum and Arren Goldman, 155 N.J.L.J. 1151 (1999).

**7:7-7.5 Coastal general permit for amusement pier expansion**

(a) This coastal general permit authorizes the expansion of an existing, functional amusement pier as defined at N.J.A.C. 7:7-1.3, provided that the expansion complies with the following:

1. The amusement pier was existing and functional as of July 19, 1993;
2. The expansion does not exceed by more than 25 percent the footprint of the amusement pier as it existed on July 19, 1993;
3. The expansion is located more than 150 feet landward of the mean high water line;
4. The expansion will not eliminate or affect existing, direct public access from the boardwalk to the beach, unless for each access point eliminated another access point is provided immediately adjacent to the expanded amusement pier;
5. The expansion includes a provision for public seating and viewing at the terminal end of the expansion;
6. The expansion may consist of either structures or beach grading which does not result in change in existing beach elevations of more than one foot;
7. The expansion shall not result in excavation or grading of a dune;
8. The expanded amusement pier shall continue to be used only for amusements; and
9. The expansion is consistent with the Water Quality Management Plan adopted pursuant to N.J.A.C. 7:15.

(b) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:
  - i. The amusement pier as it existed on July 19, 1993, as it exists at the time of the application, and as it will appear with the proposed expansion;
  - ii. Existing and proposed direct public access points from the boardwalk to the beach;
  - iii. The proposed public seating and viewing area at the terminal end of the expansion; and
  - iv. Location of the mean high water line of the Atlantic Ocean at or in proximity to the site; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed expansion complies with (a) above, including supplemental documents as appropriate, such as maps or surveys.

New Rule, R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Former N.J.A.C. 7:7-7.5, Long Branch Redevelopment Zone Permit, recodified to N.J.A.C. 7:7-7.4.

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

Added (a)9.

**7:7-7.6 Coastal general permit for beach and dune maintenance activities**

(a) This coastal general permit authorizes beach and dune maintenance activities provided:

1. The beach and dune maintenance activities are conducted in accordance with Best Management Practices as defined by the Department in the Coastal Zone Management rules at N.J.A.C. 7:7E-3A.2, 3A.3 and 3A.4 (routine beach maintenance, emergency post-storm beach restoration, and dune creation and maintenance, respectively); and
2. The beach and dune maintenance activities shall not be conducted in any wetlands.

(b) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the specific location of all proposed beach and dune maintenance activities;
2. The name, title, address and telephone number of the person(s) responsible for supervising the proposed activities to ensure compliance with N.J.A.C. 7:7E-3A.2, 3A.3 and 3A.4; and
3. The schedule for conducting the specific beach and dune maintenance activities.

New Rule, R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

In (a)1 and (b)2, deleted reference to N.J.A.C. 7:7E-3A.1 and added reference to 7:7E-3A.4; in (b)1, substituted "Three copies of a site plan(s)" for "A plan".

**7:7-7.7 Coastal general permit for voluntary reconstruction of certain residential or commercial development**

(a) This coastal general permit authorizes the voluntary reconstruction of a non-damaged legally constructed, currently habitable residential or commercial development landward of the existing footprint of development provided:

1. Such reconstruction is in compliance with existing requirements or codes of municipal, State and Federal law;

2. The reconstruction does not result in the enlargement of the footprint of the development;

3. In the case of residential reconstruction, the reconstruction does not result in an increase in the number of dwelling units;

4. In the case of commercial reconstruction;

i. The reconstruction does not result in an increase in the number of parking spaces or equivalent parking area associated with the development; and

ii. The development is consistent with the Water Quality Management Plan adopted pursuant to N.J.A.C. 7:15;

5. The reconstruction does not result in additional impacts to Special Areas as defined at N.J.A.C. 7:7E-3;

6. The reconstruction does not increase the area covered by buildings and/or asphalt or concrete pavement; and

7. The reconstruction meets the requirements of N.J.A.C. 7:7E-3.25 and 3.26.

(b) Authorization under this coastal general permit is not required for repairs or maintenance, such as replacing siding, windows or roofs which is not regulated, unless the repair or maintenance is associated with an expansion of the footprint of development.

(c) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) clearly depicting the locations and dimensions of all existing and proposed structures, existing site conditions (including all Special Areas as defined at N.J.A.C. 7:7E-3), and all proposed filling, grading, excavation and clearing;

2. In the case of residential reconstruction, documentation that there will not be an increase in the number of dwelling units; and

3. In the case of commercial reconstruction, documentation that there will not be an increase in the number of parking spaces or equivalent parking area associated with the proposed reconstruction.

New Rule, R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

In (a), codified 4 as 4 and i and added ii.

Amended by R.2007 d.340, effective November 5, 2007.

See: 38 N.J.R. 3950(a), 39 N.J.R. 4573(a).

In (a)5, deleted "and" from the end; in (a)6, substituted "; and" for the period at the end; and added (a)7.

#### **7:7-7.8 Coastal general permit for the development of a single family home or duplex**

(a) This coastal general permit authorizes the development of a single family home or duplex and/or accessory develop-

ment (such as garages, sheds, pools, driveways, grading, filling, and clearing, excluding shore protection structures), provided the single family home or duplex and accessory development are located landward of the mean high water line, and provided the single family home or duplex is not located on a bulkheaded lagoon lot.

(b) Development under this coastal general permit shall not result in the development of more than one single family home or duplex either solely or in conjunction with a previous development as defined at N.J.A.C. 7:7-2.1(b) 8.

(c) Development under this coastal general permit shall comply with N.J.A.C. 7:7E-3.22, Beaches, 7:7E-3.25, Flood hazard areas, 7:7E-3.26, Riparian zones, 7:7E-3.27, Wetlands, 7:7E-3.28, Wetland buffers, and 7:7E-3.38, Endangered or threatened wildlife or vegetation species habitats.

(d) Development under this coastal general permit shall comply with N.J.A.C. 7:7E-3.16, Dunes, except as provided under (d)1 or 2 below:

1. Development that is located on the landward slope of a secondary or tertiary dune described at (d)1ii below, whichever is most landward, need not comply with the dunes rule, N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following conditions:

i. The area of the site proposed to be developed is located greater than 500 feet landward of the mean high water line of the adjacent water body;

ii. The cross-sectional area of the primary frontal dune waterward of the proposed development, as measured above the 100-year stillwater elevation and waterward of the primary frontal dune crest, is greater than 1,100 square feet. For the purpose of this subparagraph, primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep waterward and landward slopes immediately landward of and adjacent to the beach, and subject to erosion and overtopping from high tides and waves during major coastal storms. Secondary and tertiary dunes means the second and third dune mound or ridge, respectively, landward from and adjacent to the primary frontal dune;

iii. The beach area adjacent to the proposed development is either naturally stable without beach nourishment or naturally accretional without beach nourishment, as determined using the method described at N.J.A.C. 7:7E-3.19, Erosion Hazard Areas, and the information in the Department's Geographic Information System (GIS) database as found in the Historical Shorelines coverage 1836-1986; and

iv. The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to develop the single family home or duplex and/or accessory structures; or

2. Development that is located on a dune which is isolated from a beach and dune system by a paved public road, public seawall or public bulkhead, existing on July 19, 1993, need not comply with the dunes rule, N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following criteria:

- i. The road, seawall or bulkhead is of sufficient size to be designated as the V-zone boundary on the municipal Flood Insurance Rate Map;
- ii. The road, seawall or bulkhead has eliminated the protective function of the isolated dune, by providing a significant barrier to coastal processes, including storm waves and flooding;
- iii. The road, seawall or bulkhead is functional and is currently maintained by a public entity;
- iv. The area of proposed construction is designated as an A-Zone, B-Zone or C-Zone on the municipal Flood Insurance Rate Map;
- v. The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to develop the single family home or duplex and/or accessory structures; and
- vi. The proposed development does not include the construction of a shore protection structure.

(e) Development under this coastal general permit shall comply with N.J.A.C. 7:7E-3.31, Coastal bluffs, if the site is located on the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay. Coastal bluffs are defined at N.J.A.C. 7:7E-3.31(a). If the site is not located on one of the four water bodies listed above, the development shall comply with the setback requirements at (d)1 below, unless the development meets either (e)1 or 2 below:

1. The development is located in the "developed bluff area." For the purposes of this paragraph, a "developed bluff area" is an area delineated by the limit of existing buildings, in-ground pool or tennis court that existed on July 19, 1993; or
2. The development on the coastal bluff is located landward of the developed bluff area as defined at (e)1 above, and does not exceed the cumulative surface area of the developed bluff area on the site. If all or part of the proposed development on the coastal bluff is located landward of the existing developed bluff area, an equivalent area of the existing developed bluff area shall be restored through the planting of native woody vegetation species.

(f) Development under this coastal general permit shall comply with N.J.A.C. 7:7E-3.18, Coastal High Hazard Areas, and 7:7E-3.19, Erosion Hazard Areas, except as excluded under (f)1 below;

1. Development under this coastal general permit that is located on a site partially or completely within an ero-

sion hazard area or coastal high hazard area need not comply with the Coastal High Hazard Areas rule, N.J.A.C. 7:7E-3.18, and the Erosion Hazard Areas rule, N.J.A.C. 7:7E-3.19 if:

- i. The lot was shown as a subdivided lot prior to July 19, 1993;
- ii. The lot is served by a municipal sewer system; and
- iii. A house or commercial building is located within 100 feet of each of the lot lines that run roughly perpendicular to the mean high water line. The 100 feet shall be measured outward from each lot line, along a line generally parallel to the mean high water line;

(g) The use of plastic under landscaped or gravel areas is prohibited. All sub-gravel liners shall be made of filter cloth or other permeable material.

(h) Any driveway shall be covered with a permeable material or else shall be pitched to drain all runoff onto permeable areas of the site.

(i) For a wooded site, site clearing shall be limited to an area no more than 20 feet from the footprint of the single family home or duplex and the area necessary for driveway, septic, and utility line installations.

(j) (Reserved)

(k) For a site adjacent to or including surface water bodies or wetlands, a silt fence with a 10-foot landward return shall be erected at the limit of disturbance along the waterward and wetland sides of the development before construction begins. This fence shall be maintained and remain in place until all construction and landscaping is completed.

(l) Development under the coastal general permit shall comply with the following setbacks:

1. On a site with coastal bluffs that is not located on the Atlantic Ocean, Delaware Bay, Raritan Bay or Sandy Hook Bay, the single family home or duplex and/or accessory structures shall be set back a minimum of 10 feet from the crest of the bluff provided that the development will not result in a loss of stability of the bluff or vegetation on the bluff face. Any structure that requires excavation shall be set back one foot beyond the 10 foot setback for every foot of excavation below existing grade;

2. On an oceanfront site with existing or proposed shore protection structures, the single family home or duplex and/or accessory structures (except decks) shall be set back at least 25 feet from existing or proposed oceanfront shore protection structures. This distance shall be measured from the waterward face of a bulkhead or seawall and from the top of slope on the waterward face of the revetment. This setback shall not apply to below grade structures;

3. On a non-oceanfront site with existing or proposed shore protection structures, the single family home or duplex and/or accessory structures (except decks) shall be set back at least 15 feet from existing or proposed shore protection structures. If the single family home or duplex and/or accessory structures cannot be located at least 15 feet landward of the shore protection structure, the Department shall reduce the required setback if an engineering certification is submitted demonstrating that, after the proposed development has been constructed, the shore protection structure can be replaced within 18 inches of the existing shore protection structure and a conservation restriction in a form approved by the Department is recorded for the property which states that any reconstruction of a shore protection structure shall be within 18 inches of the existing shore protection structure. A site with coastal bluffs shall instead comply with (l)1 above;

(m) This coastal general permit does not authorize any activities regulated under the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.

(n) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:
  - i. The mean and spring high water lines of the tidal waters at or in proximity to the site;
  - ii. Existing features at the site including topography and structures, and the limits of wetlands, dune areas, beach areas, flood hazard areas, coastal bluffs and vegetation;
  - iii. Existing roads and utilities immediately adjacent to the site;
  - iv. All proposed development, including all structures, grading, clearing and limits of disturbance; and
  - v. The limits and depth of all proposed excavation within 25 feet of the bluff crest; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed development complies with (a) through (m) above, including supplemental documents as appropriate, such as maps or surveys.

New Rule, R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

In (d)1, inserted "whichever is most landward," following "at (d)1ii below," in the introductory paragraph; in (e), rewrote the introductory paragraph and added i and ii.

Amended by R.2007 d.340, effective November 5, 2007.

See: 38 N.J.R. 3950(a), 39 N.J.R. 4573(a).

In (c), inserted "7:7E-3.25, Flood hazard areas, 7:7E-3.26, Riparian zones,"; and reserved (j).

### 7:7-7.9 Coastal general permit for the expansion, or reconstruction (with or without expansion), of a single family home or duplex

(a) This coastal general permit authorizes the expansion, or reconstruction (with or without expansion), of a legally constructed, habitable single family home or duplex and/or accessory development (such as garages, sheds, pools, driveways, grading, excavation and clearing, excluding shore protection structures), provided the single family home or duplex and accessory structures are located landward of the mean high water line, and provided the single family home or duplex is not located on a bulkheaded lagoon lot.

(b) Development under this coastal general permit shall not result in development of more than one single family home or duplex either solely or in conjunction with a previous development as defined at N.J.A.C. 7:7-2.1(b) 8.

(c) Development under this coastal general permit shall comply with N.J.A.C. 7:7E-3.22, Beaches, 7:7E-3.25, Flood hazard areas, 7:7E-3.26, Riparian zones, 7:7E-3.27, Wetlands, 7:7E-3.28, Wetland buffers, and 7:7E-3.38, Endangered or threatened wildlife or vegetation species habitats;

(d) Development under this coastal general permit shall comply with N.J.A.C. 7:7E-3.16, Dunes, except as provided under (d)1 through 4 below:

1. Development that is located on the landward slope of a secondary or tertiary dune described at (d)1ii below, whichever is most landward, need not comply with the dunes rule, N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following conditions:

i. The area of the site proposed to be developed is located greater than 500 feet landward of the mean high water line of the adjacent water body;

ii. The cross-sectional area of the primary frontal dune waterward of the proposed development, as measured above the 100-year stillwater elevation and waterward of the primary frontal dune crest, is greater than 1,100 square feet. For the purpose of this subparagraph, primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep waterward and landward slopes immediately landward of and adjacent to the beach, and subject to erosion and overtopping from high tides and waves during major coastal storms. Secondary and tertiary dunes means the second and third dune mound or ridge, respectively, landward from and adjacent to the primary frontal dune;

iii. The beach area adjacent to the proposed development is either naturally stable without beach nourishment or naturally accretional without beach nourishment, as determined by using the method described at N.J.A.C. 7:7E-3.19, Erosion Hazard Areas and the information in the Department's Geographical Information System (GIS) database as found in the Historical Shorelines coverage 1836-1986; and

iv. The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to expand or reconstruct the single family home or duplex and/or accessory structures;

2. Development that is located on a dune which is isolated from a beach and dune system by a paved public road, public seawall or public bulkhead, existing on July 19, 1993, need not comply with the dunes rule, N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following criteria:

i. The road, seawall or bulkhead is of sufficient size to be designated as the V-zone boundary on the municipal Flood Insurance Rate Map;

ii. The road, seawall or bulkhead has eliminated the protective function of the isolated dune, by providing a significant barrier to coastal processes, including storm waves and flooding;

iii. The road, seawall or bulkhead is functional and is currently maintained by a public entity;

iv. The area of proposed construction is designated as an A-Zone, B-Zone or C-Zone on the municipal Flood Insurance Rate Map;

v. The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to expand or reconstruct the single family home or duplex and/or accessory structures; and

vi. The proposed development does not include the construction of a shore protection structure.

3. Development that is located on a dune need not comply with the dunes rule, N.J.A.C. 7:7E-3.16, if the development meets the following criteria:

i. The single family home or duplex legally existed on July 19, 1993;

ii. The development constructed after July 19, 1993 does not exceed a cumulative surface area of 750 square feet on the dune, excluding the area of reconstruction within the existing footprint of development and the area of development authorized under (d)4 below;

iii. The development is located within the footprint of development of the existing single family home or duplex and/or on the landward side of the existing footprint of development and within the area between lines extended landward and perpendicular to the mean high water line from the widest shore parallel points of the existing footprint of development, except as provided at (d)3iv below;

iv. For every 10 feet the footprint of development of the single family home or duplex is set back landward on the lot from the existing footprint of development of the single family home or duplex, the total area of development may be increased by 200 square feet in addition to that authorized in (d)3ii above, provided the additional

square footage is constructed on the non-waterward side of the single family home or duplex;

v. The dune area waterward of the single family home or duplex is enhanced as follows:

(1) Sand fill shall be placed as necessary to establish a uniform dune crest elevation matching the highest dune crest elevation at the site; and

(2) Native dune vegetation shall be planted as necessary to establish vegetative cover in accordance with the specifications contained in Guidelines and Recommendations for Coastal Dune Restoration and Creation Projects (DEP, 1985) and/or Restoration of Sand Dunes Along the Mid-Atlantic Coast (U.S. Soil Conservation Service, 1992). These documents are available upon request from the Department's Land Use Regulation Program, PO Box 439, Trenton, New Jersey 08625-0439, (609) 292-0060; and

vi. A conservation restriction for the dune areas waterward of the existing and/or approved single family home or duplex and/or accessory development is recorded in accordance with N.J.A.C. 7:7-1.5(b)18; and

4. Development that is located on a dune and entails the enclosure of an existing deck, patio, or porch need not comply with the dunes rule, N.J.A.C. 7:7E-3.16, if the development meets the following criteria:

i. The development is the enclosure of a deck, patio, or porch;

ii. The deck, patio, or porch enclosure is located on the non-waterward side of the single family home or duplex, as defined at N.J.A.C. 7:7-1.3;

iii. The deck, patio, or porch legally existed on July 19, 1993;

iv. The deck, patio, or porch abuts the dwelling;

v. The enclosure does not extend beyond the limit of the existing deck, patio, or porch as it existed on July 19, 1993;

vi. The footprint of development of the deck, patio, or porch enclosure does not exceed 400 square feet; and

vii. The dune area waterward of the single family home or duplex is enhanced as follows:

(1) Sand fill shall be placed as necessary to establish a uniform dune crest elevation matching the highest existing dune crest elevation at the site;

(2) Native dune vegetation shall be planted in accordance with the specifications contained in Guidelines and Recommendations for Coastal Dune Restoration and Creation Projects (DEP, 1985) and/or Restoration of Sand Dunes Along the Mid-Atlantic Coast (U.S. Soil Conservation Service, 1992). These documents are available upon request from the Department's Land Use Regulation Program, PO Box

439, Trenton, New Jersey 08625-0439, (609)292-0060; and

viii. A conservation restriction for the dune areas waterward of the existing and/or approved single family home or duplex and/or accessory development is recorded in accordance with N.J.A.C. 7:7-1.5(b)18.

(e) Development under this coastal general permit shall comply with N.J.A.C. 7:7E-3.31, Coastal bluffs, if the site is located on the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay. Coastal bluffs are defined at N.J.A.C. 7:7E-3.31(a). If the site is not located on one of the four water bodies listed above, the development shall comply with the setback requirements at (l)1 below, unless the development meets either (e)1 or 2 below:

1. The development is located in the “developed bluff area.” For the purposes of this paragraph, a “developed bluff area” is an area delineated by the limit of existing buildings, in-ground pool or tennis court that existed on July 19, 1993; or

2. The development on the coastal bluff is located landward of the developed bluff area as defined at (e)1 above, and does not exceed the cumulative surface area of the developed bluff area on the site. If all or part of the proposed development on the coastal bluff is located landward of the existing developed bluff area, an equivalent area of the existing developed bluff area shall be restored through the planting of native woody vegetation species.

(f) Development under this coastal general permit shall comply with N.J.A.C. 7:7E-3.18, Coastal High Hazard Areas, and 7:7E-3.19, Erosion Hazard Areas, except as excluded under (f)1 below;

1. Development under this coastal general permit that is located on a site partially or completely within an erosion hazard area or coastal high hazard area need not comply with the Coastal High Hazard Areas rule, N.J.A.C. 7:7E-3.18, and the Erosion Hazard Areas rule, N.J.A.C. 7:7E-3.19 if:

i. The lot was shown as a subdivided lot prior to July 19, 1993;

ii. The lot is served by a municipal sewer system; and

iii. A house or commercial building is located within 100 feet of each of the lot lines that run roughly perpendicular to the mean high water line. The 100 feet shall be measured outward from each lot line, along a line generally parallel to the mean high water line.

(g) The use of plastic under landscaped or gravel areas is prohibited. All sub-gravel liners shall be made of filter cloth or other permeable material.

(h) Any driveway shall be covered with a permeable material or else shall be pitched to drain all runoff onto permeable areas of the site.

(i) For a wooded site, site clearing shall be limited to an area no more than 20 feet from the footprint of the single family home or duplex and the area necessary for driveway, septic, and utility line installations.

(j) (Reserved)

(k) For a site adjacent to or including surface water bodies or wetlands, a silt fence with a 10-foot landward return shall be erected at the limit of disturbance along the waterward and wetland sides of the development before construction begins. This fence shall be maintained and remain in place until all construction and landscaping is completed.

(l) Development under this coastal general permit shall comply with the following setbacks:

1. On a site with coastal bluffs that are not located on the Atlantic Ocean, Delaware Bay, Raritan Bay or Sandy Hook Bay, the single family home or duplex and/or accessory structures shall be set back a minimum of 10 feet from the crest of the bluff provided that the development will not result in a loss of stability of the bluff or vegetation on the bluff face. Any structure that requires excavation shall be set back one foot beyond the 10 foot setback for every foot of excavation below existing grade;

2. On an oceanfront site with existing or proposed shore protection structures, the single family home or duplex and/or accessory structures (except decks) shall be set back at least 25 feet from existing or proposed oceanfront shore protection structures. This distance shall be measured from the waterward face of a bulkhead or seawall and from the top of slope on the waterward face of the revetment. This setback shall not apply to other below grade structures; and

3. On a non-oceanfront site with existing or proposed shore protection structures, the single family home or duplex and/or accessory structures (except decks) shall be set back at least 15 feet from existing or proposed shore protection structures. If the single family home or duplex and/or accessory structures cannot be located at least 15 feet landward of the shore protection structure, the Department shall reduce the required setback if an engineering certification is submitted demonstrating that, after the proposed development has been constructed, the shore protection structure can be replaced within 18 inches of the existing shore protection structure and a conservation restriction in a form approved by the Department is recorded for the property which states that any reconstruction of a shore protection structure shall be within 18 inches of the existing shore protection structure. A site with coastal bluffs shall instead comply with (l)1 above.

(m) This coastal general permit does not authorize any activities regulated under the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.

(n) In addition to the application and additional information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:
  - i. The mean and spring high water lines of the tidal waters at or in proximity to the site;
  - ii. Existing features at the site including topography and structures, and the limits of wetlands, dune areas, beach areas, flood hazard areas, coastal bluffs and vegetation;
  - iii. Existing roads and utilities immediately adjacent to the site;
  - iv. All proposed development, including all structures, grading, clearing and limits of disturbance; and
  - v. The limits and depth of all proposed excavation within 25 feet of the bluff crest; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed development complies with the criteria listed (a) through (m) above, including supplemental documents as appropriate such as maps or surveys.

New Rule, R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

In (d)1, "whichever is most landward," following "at (d)1ii below," in the introductory paragraph; in (e), rewrote the introductory paragraph and added 1 and 2.

Amended by R.2007 d.340, effective November 5, 2007.

See: 38 N.J.R. 3950(a), 39 N.J.R. 4573(a).

In (c), inserted "7:7E-3.25, Flood hazard areas, 7:7E-3.26, Riparian zones,"; and reserved (j).

#### **7:7-7.10 Coastal general permit for construction of a bulkhead and placement of associated fill on a manmade lagoon**

(a) This coastal general permit authorizes the construction of a bulkhead on a lot located on a substantially developed manmade lagoon, provided that the bulkhead complies with the following:

1. The site is located on a substantially developed manmade lagoon as defined at N.J.A.C. 7:7-1.3;
2. The bulkhead shall be located at or above the spring high water line unless it is between two existing legally constructed bulkheads not more than 75 feet apart. In such cases, the connecting bulkhead shall not extend waterward of a straight line connecting the ends of the existing bulkheads;
3. There shall be no disturbance to wetlands during construction;

4. The bulkhead is located inshore of any wetlands;
5. A minimum 10 foot return shall be constructed at each end of the bulkhead unless it is tied into an existing adjacent bulkhead; and
6. Clean fill from an upland source shall be used for backfill.

(b) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:
  - i. The mean and spring high water lines of the tidal waters at the site;
  - ii. Existing features at the site, including structures and the upper and lower limits of wetlands and beach areas;
  - iii. Bulkheads or other retaining structures on adjacent properties; and
  - iv. All proposed structures including deadmen, tie backs, and returns; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed bulkhead complies with (a) above, including supplemental documents as appropriate, such as maps or surveys.

New Rule, R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

#### **7:7-7.11 Coastal general permit for the construction of a revetment at a single family home or duplex lot**

(a) This coastal general permit authorizes the construction of a revetment, as defined at N.J.A.C. 7:7-1.3, at a single family home or duplex lot that is not part of a larger development owned or controlled by the same property owner and which has an eroding shoreline along any shore other than the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay. (The coastal general permit for the construction of gabions at a single family home is found at N.J.A.C. 7:7-7.12.)

(b) Construction of the revetment shall comply with the following:

1. The revetment slope shall not be steeper than one vertical to two horizontal;
2. The placement of rip rap in the waterway shall be limited to that necessary to protect the shoreline;
3. Fill material placed to achieve the required slope shall be:
  - i. Added only to the upland;
  - ii. Free of large stones; and
  - iii. Firmly compacted before revetment construction begins;

4. Filter fabric (or graded stone filter) shall be installed to prevent loss of slope materials through voids in the revetment material;

5. Revetment stones shall be angular and blocky, not rounded;

6. The toe of the revetment shall be located at least three feet below existing grade to prevent undercutting;

7. Weight of individual stone shall be determined by a design engineer based on wave height range for the site;

8. Placement of a revetment in dunes or wetlands is prohibited. Any wetlands disturbed by the construction activities shall be restored to pre-construction conditions; and

9. The revetment shall be placed in such a way as to not result in instability of a coastal bluff or cause erosion of adjacent properties or offshore areas.

(c) In addition to the application and additional information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site(s) plan showing the following:

i. The mean high, mean low and spring high water lines of the tidal waters at the site;

ii. Existing features at the site including topography and structures;

iii. The upper and lower limits of wetlands, beach, dune, and coastal bluff areas at the site and on adjacent waterfront properties;

iv. Bulkheads or other retaining structures on adjacent properties;

v. The proposed location of the revetment and limit of disturbance; and

vi. Cross sections of the proposed revetment in relationship to mean high, mean low water, and spring high water lines; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed revetment complies with (a) and (b) above, including supplemental documents as appropriate, such as maps or surveys.

New Rule. R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

#### **7:7-7.12 Coastal general permit for the construction of gabions at a single family/duplex lot**

(a) This coastal general permit authorizes the construction of gabions, as defined at N.J.A.C. 7:7-1.3, at a single family home or duplex lot that is not part of a larger development owned or controlled by the same property owner and which has an eroding shoreline along any shore

other than the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay. (The coastal general permit for the construction of revetments at a single family home is found at N.J.A.C. 7:7-7.11.)

(b) The design and construction of the gabions shall comply with the following:

1. The gabions shall be laid along the face of the shore such that the waterward slope of the gabions, as measured along the face of the gabions, shall be no steeper than one vertical to two horizontal. However, if the steepness and height of the slope of the non-storm shoreline profile preclude construction of a sloped gabion system, then the waterward slope of a step faced gabion system, as measured along a line connecting the gabions shall be no steeper than one vertical to one horizontal;

2. The placement of the gabions in the waterway shall be limited to that necessary to protect the shore;

3. The toe of the gabions shall be located at least three feet below existing grade to prevent undercutting;

4. Rip rap shall be placed along the waterward toe of the gabion only if the Department determines that such rip-rap is required to limit scour potential and the areas and volume of rip rap are minimized;

5. Placement of gabions on dunes or in wetlands is prohibited. Any wetlands disturbed by the construction activities shall be restored to pre-construction conditions;

6. The gabions shall be placed in such a way as to not result in instability of a coastal bluff or cause erosion of adjacent properties or offshore areas;

7. The gabions shall be tightly packed with four inch to eight inch diameter stone (to minimize movement of the interior stone and consequent damage to the wire) and the edges shall be laced together with steel wire;

8. Individual gabions shall be wired together;

9. The size and number of gabions shall be determined by a design engineer based on wave height range for the site; and

10. Fill material placed to achieve the required slope shall be:

i. Added only to the upland;

ii. Free of large stones; and

iii. Firmly compacted before construction of the gabions begins.

(c) In addition to the application and additional information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:

- i. The mean high, mean low, and spring high water lines of the tidal waters at the site;
  - ii. Existing features at the site including topography and structures;
  - iii. The upper and lower limits of wetlands, beach, dune, and coastal bluff areas at the site and on adjacent waterfront properties;
  - iv. Bulkheads or other retaining structures on adjacent properties;
  - v. The proposed location of the gabions and limit of disturbance;
  - vi. Cross sections of the proposed gabions in relationship to mean high and mean low water; and
2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed gabion system complies with (a) and (b) above, including supplemental documents as appropriate, such as maps or surveys.

New Rule, R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

**7:7-7.13 Coastal general permit for the construction of support facilities at legally existing and operating marinas**

(a) This coastal general permit authorizes the construction of support facilities at legally existing and operating commercial marinas including marinas operated by public agencies, commissions and authorities.

(b) The construction of the following support facilities listed at (b)1 through 7 below is acceptable provided they comply with the specific conditions for each facility and also with (c) below:

1. Construction of boat rack systems/marina support buildings including, but not limited to, showroom, maintenance/repair, marine supplies, bait/tackle, boat sales, dock masters office buildings, sheds, excluding residential development provided:
  - i. The building(s) shall be no more than one story or level;
  - ii. The building(s) shall be set back a minimum of 100 feet from the mean high water line;
  - iii. The building(s) and rack system shall be set back a minimum of 50 feet from the inland limit of any wetlands;
  - iv. The building(s) and rack system shall be located in an existing cleared and maintained area of the site;
  - v. The marina must provide or maintain restrooms and at least one portable toilet emptying receptacle in accordance with N.J.A.C. 7:7E-7.3(d); and

vi. Marinas with dockage for 25 or more vessels or any one vessel with live aboard arrangement must provide for adequate and conveniently located pumpout stations.

2. Construction of restroom facilities provided:

- i. Discharge from the facilities shall either be to a municipal or regional treatment plant where practicable, or to a subsurface sewage disposal system designed with capacity to accommodate the new restroom facilities in accordance with N.J.A.C. 7:9A;
- ii. Restrooms shall provide both hot and cold water and shall be maintained in a sanitary, warm, dry, brightly-lit and well ventilated condition;
- iii. The restroom building shall be set back a minimum of 100 feet from the mean high water line unless the Department determines that there is no alternate location; and
- iv. The restroom building shall be set back a minimum of 50 feet from the inland limit of any wetlands, unless the Department determines that there is no alternate location.

3. Construction of pumpout facilities (marine sanitation devices) provided:

- i. Discharge from the facility shall either be to a municipal or regional treatment plant where practicable or to a subsurface sewage disposal system; or
- ii. Discharge to a holding tank with waste being removed by a licensed septage hauler. A marina employing this method shall maintain a record of waste removal.

4. Construction of fences, water lines and new sewer lines to connect restrooms and pumpouts to existing sewer lines provided:

- i. The construction has no prudent or feasible alternative alignment which would have less impact to Special Areas as defined at N.J.A.C. 7:7E-3;
- ii. The construction shall not result in permanent or long term loss of Special Areas as defined at N.J.A.C. 7:7E-3;
- iii. The construction utilizes appropriate measures to mitigate adverse environmental impacts to the maximum extent feasible, such as restoration of disturbed vegetation, habitats, and land and water features; and
- iv. For sewer lines only:
  - (1) The sewer line receives a Treatment Works Approval from the Department's Bureau of Connection and Construction Permits;
  - (2) The sewer line shall not result in adverse secondary impacts; and

- (3) The sewer line connects to an existing sewer line located on-site or immediately adjacent to the site;
5. Construction of a gasoline pump(s) and associated pipes and tanks on the upland portion of the marina provided:
- i. The marina has available adequate floating containment booms and absorbent materials in the event of hydrocarbon spills;
  - ii. Fuel pumps include back pressure cutoff valves. Main cut-off valves shall be available both at the dock and in the upland area of the marina; and
  - iii. Any other required approvals for the construction of underground or above ground storage tanks are obtained.
6. Construction of boat handling facilities including, but not limited to, winches, gantries, railways, platforms and lifts, hoists, cranes, fork lifts and ramps provided:
- i. The boat handling facility (excluding boat ramp and railways) is located landward of the mean high water line; and
  - ii. The boat handling facility is not located in a wetland area.
7. The one time construction of a single marina support building not exceeding a footprint of 120 square feet provided the building is located on the upland portion of the marina and is not located within wetlands.
- (c) The construction of support facilities listed at (b)1 through 7 above shall also comply with the following:
1. The marina complies with N.J.A.C. 7:7E-7.3(d), the standards relevant to the construction of marinas;
  2. Public access shall be provided in accordance with the public access to the waterfront rule, N.J.A.C. 7:7E-8.11;
  3. Trash receptacles along with adequate fish cleaning areas, including separately marked dispensers for organic refuse, shall be provided;
  4. The development is consistent with the Water Quality Management Plan adopted pursuant to N.J.A.C. 7:15; and
  5. The development shall meet the requirements of N.J.A.C. 7:7E-3.25 and 3.26.
- (d) In addition to the application and information required under N.J.A.C. 7:7E-7.3, the following information shall be submitted:
1. Three copies of a site(s) plan showing the following:
    - i. The mean high, mean low and spring high water lines of the tidal waters at the site;

- ii. Existing features at the site including, topography, structures, utilities, beach areas and dune areas;
  - iii. The upper and lower limits of wetlands within 150 feet of the proposed limit of disturbance;
  - iv. The proposed development including all limits of disturbance, structures and building heights, grading, and existing and proposed clearing areas;
  - v. The location of all existing and proposed public access areas; and
  - vi. Where sewers are to be used, the location of the existing sewer line abutting the site;
2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed marina support facility complies with (a) through (c) above, including supplemental documents as appropriate, such as maps or surveys; and
3. A copy of any previous coastal permit for the site.

New Rule, R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

Deleted (b)4iv(2); recodified former (b)4iv(3) and (b)4iv(4) as (b)4iv(2) and (b)4iv(3); added (c)4.

Amended by R.2007 d.340, effective November 5, 2007.

See: 38 N.J.R. 3950(a), 39 N.J.R. 4573(a).

In (c)3, deleted "and" from the end; in (c)4, substituted "; and" for the period at the end; and added (c)5.

#### **7:7-7.14 Coastal general permit for reconstruction of a legally existing functioning bulkhead**

(a) This coastal general permit authorizes the reconstruction of a legally existing functioning bulkhead provided:

1. For project sites which are located on a lagoon lot, the reconstruction of a legally existing bulkhead is located in-place or upland of the existing bulkhead;
2. For project sites which are not located on a lagoon lot:
  - i. The reconstruction of a legally existing bulkhead is located in-place or upland of the existing bulkhead; or
  - ii. The reconstruction of a legally existing bulkhead is:
    - (1) Located within 18 inches outshore of the existing bulkhead (measured from the waterward face of the original bulkhead alignment of the existing bulkhead to the waterward face of the proposed bulkhead) when a timber bulkhead is used; or
    - (2) Located up to a maximum of 24 inches outshore of the existing bulkhead (measured from the waterward face of the original bulkhead alignment of the existing bulkhead to the waterward face of the proposed bulkhead) when a vinyl bulkhead is used,

provided the vinyl bulkhead abuts the pilings of the existing bulkhead; and

3. For all project sites, reconstruction of certain bulkhead structures in place located below the mean high water line may be exempt from the Waterfront Development Law pursuant to N.J.A.C. 7:7-2.3(d)4.

(b) The reconstruction of a legally existing bulkhead as described in (a) above is acceptable provided that:

1. The replacement bulkhead is located upland of any wetlands;

2. With the exception of individual single family/duplex properties which are not part of a larger development, public access shall be maintained or provided in accordance with the public access to the waterfront rule, N.J.A.C. 7:7E-8.11;

3. The construction of bulkheads subject to wave run up forces (V-zones) shall be designed and certified by a professional engineer to withstand the forces of wave runoff, and shall include a splash pad on the landward side. The splash pad must have a minimum width of 10 feet, and shall be constructed of concrete, asphalt or other erosion resistant material. If a cobblestone or similar splash pad is utilized, appropriate sub-base and filter cloth shall be incorporated into the design;

4. The placement of rip-rap along the seaward toe of the replacement bulkhead structure may qualify for this coastal general permit if the Department determines that such rip rap is required to limit scour potential and the areas and volume of rip rap are minimized;

5. The structure will not create net adverse shoreline movement downdrift, including erosion or shoaling;

6. The construction shall have no adverse impact to any Special Areas defined at N.J.A.C. 7:7E-3; and

7. Clean fill from an upland source shall be used for backfill.

(c) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:
  - i. The mean and spring high water lines of the tidal waters at the site;
  - ii. Existing features at the site including, all waterfront structures, existing bulkhead, and the upper and lower limits of wetlands, beach areas and dune areas;
  - iii. Bulkheads or other retaining structures on adjacent properties;
  - iv. The proposed new bulkhead including returns and tie backs and splash pad if located within the V-zone; and

v. The location of all existing and proposed public access areas; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed reconstructed bulkhead complies with (a) and (b) above, including supplemental documents as appropriate such as maps or surveys.

New Rule, R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

Amended by R.2006 d.142, effective April 17, 2006.

See: 37 N.J.R. 4108(a), 38 N.J.R. 1657(a).

Rewrote (a).

#### **7:7-7.15 Coastal general permit for investigation, cleanup, removal or remediation of hazardous substances**

(a) This coastal general permit authorizes all regulated activities above the mean high water line that are undertaken, authorized or otherwise expressly approved in writing by the Department for the investigation, cleanup, removal or remediation of hazardous substances as defined by or pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or pollutants, as defined by the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., provided the following conditions are met:

1. If the proposed cleanup activity is to take place in Special Areas as defined at N.J.A.C. 7:7E-3, the coastal general permit authorization shall be issued only if the Department finds that there are no practicable alternatives to the investigation, cleanup, removal and remediation of the hazardous substances or pollutants that would involve less or no disturbance or destruction of Special Areas as defined at N.J.A.C. 7:7E-3;

2. Mitigation may be required in accordance with the Coastal Zone Management rules, N.J.A.C. 7:7E, for disturbance to Special Areas as defined at N.J.A.C. 7:7E-3; and

3. For coastal wetlands, mitigation shall be performed according to the procedures for mitigation at N.J.A.C. 7:7E-3.27 and 7:7E-3B. The mitigation plan may be incorporated as part of the document by which the Department approves the clean-up or it may be submitted as part of the coastal general permit application. The coastal general permit will not be issued until the mitigation plan is submitted and approved by the Program according to the standards at N.J.A.C. 7:7E-3.27 and 7:7E-3B.

(b) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:

i. The mean and spring high water lines of the tidal waters at the site;

ii. The limits of all Special Areas as defined at N.J.A.C. 7:7E-3 within 150 feet of the proposed limits of disturbance on site and at the material disposal site;

iii. The proposed limits of disturbance and method of investigation, clean up, removal or remediation; and

iv. The restoration plan;

2. A Compliance Statement prepared in accordance with to N.J.A.C. 7:7-6, demonstrating how the proposed hazardous waste cleanup complies with (a) above, including supplemental documents as appropriate, such as maps or surveys;

3. Photographs of the site prior to the remediation; and

4. The Department's case control number.

New Rule, R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

**7:7-7.16 Coastal general permit for the landfall of utilities**

(a) This coastal general permit authorizes the landfall of utilities including cable (that is electric, television and fiber optics), telecommunication, petroleum, natural gas, water and sanitary sewer lines constructed in tidal water bodies authorized pursuant to the Waterfront Development Law or Flood Hazard Area Control Act.

(b) Construction authorized under this coastal general permit is acceptable provided:

1. The section of the utility line that extends landward from the mean high water line of the tidal water body shall be no more than 150 feet long and shall connect to an existing utility line in the adjacent upland;
2. The width of the area disturbed within the right-of-way of the project is no more than 20 feet;
3. Excavated areas for the placement of the utility landfall shall be returned to the pre-existing elevation using the original soil, if feasible or other suitable material to backfill from a depth of 18 inches to the original grade and be revegetated;
4. The utility landfall shall have no adverse impacts to Special Areas as defined in the Coastal Zone Management rules N.J.A.C. 7:7E-3;
5. A silt fence and/or other soil erosion controls shall be installed prior to excavation and shall remain in place until final restoration is complete;
6. The staging area and construction equipment shall not be placed directly into the tidal water. Construction equipment shall be land based or based on barges;
7. All underground cutting agents/lubricants shall be contained and properly disposed. Use of a vacuum truck may be required for large drilling operations;
8. The location of existing facilities prior to excavation shall be performed pursuant to the Underground Facility Protection Act, P.L. 1994, c.118 (N.J.S.A. 48:2-73 et seq.); and
9. The sanitary sewer line is consistent with the Water Quality Management Plan adopted pursuant to N.J.A.C. 7:15.

(c) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:
  - i. The mean and spring high water lines of the tidal waters at the site;
  - ii. The upper and lower limits of wetlands, beach areas, coastal bluffs, endangered or threatened wildlife or vegetation habitats and dune areas within 150 feet of the proposed limit of disturbance;
  - iii. The proposed limit(s) of disturbance;
  - iv. The restoration plan;
  - v. The location of the existing and proposed utility; and

vi. The location and type of soil erosion and sediment control measures to be used during construction; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed landfall of the utility complies with (a) and (b) above, including supplemental documents as appropriate, such as maps and surveys.

New Rule. R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).  
Amended by R.2003 d.60, effective February 3, 2003.  
See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).  
Added (b)9.

#### 7:7-7.17 Coastal general permit for the construction of recreational facilities at public parks

(a) This coastal general permit authorizes the construction of the following recreational facilities at parks which are publicly owned or controlled for the purposes of public access. Construction of the facilities listed below is acceptable provided that the construction has no adverse impact on any Special Areas defined at N.J.A.C. 7:7E-3 and provided that the facility complies with the specific conditions listed below for each facility.

1. Construction of the following facilities provided they are not located on a dune or in a wetland, except as noted at (a)3 below:

- i. Playground equipment including, but not limited to, swings, slides, and jungle gyms;
- ii. Picnic tables, benches and grills which are not seasonal;
- iii. Gazebos, rain shelters and sheds provided they do not exceed a footprint 200 square feet;
- iv. Pathways, bicycle paths and jogging and nature trails and associated fitness equipment provided they are not located on a beach; and
- v. Fences which do not require permanent footings.

2. Construction of restroom facilities not located on a beach, dune or in a wetland, provided that:

- i. The restroom facilities connect to an existing sewer line located within or abutting the park, or facilities discharge to a subsurface sewerage disposal system;
- ii. The connection at (a)2i above shall be consistent with the 208 Water Quality Management Plan;
- iii. The restroom building shall be set back a minimum of 100 feet from the mean high water line unless the Department determines that there is no alternate location; and
- iv. The restroom building shall be set back a minimum of 50 feet from the inland limit of any wetlands,

unless the Department determines there is no alternate location.

3. Trail or boardwalk construction in wetlands is acceptable provided that:

i. The width of the trail or boardwalk does not exceed six feet, except for barrier free trails or boardwalks designed in accordance with the Barrier Free Subcode of the Standard Uniform Construction Code, N.J.A.C. 5:23-7. The construction of restrooms, gazebos, rain shelters, or any covered or enclosed structure is not authorized on the boardwalk or trail;

ii. The height of the structure over wetlands, other than wetlands regulated under the Freshwater Wetlands Protection Act and implementing rules at N.J.A.C. 7:7A, shall be a minimum of four feet regardless of width;

iii. The project does not interfere with the natural hydrology of the area; and

iv. The project does not encroach upon or adversely affect the habitat of any threatened or endangered species.

(b) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:

i. The mean and spring high water lines of the tidal waters at the site;

ii. The proposed development including all limits of disturbance, structures, grading and clearing; and

iii. Within 150 feet of the proposed limit(s) of disturbance, the upper and lower limits of wetlands, beach areas, endangered and threatened wildlife or vegetation habitats and dune areas; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed recreational facility complies with (a) above, including supplemental documents as appropriate such as maps or surveys.

New Rule, R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

### **7:7-7.18 Coastal general permit for bulkhead construction and placement of associated fill**

(a) This coastal general permit authorizes the construction of a bulkhead and associated fill at a single family/duplex lot on a natural water body provided that the proposed bulkhead complies with the following:

1. Legally existing functional bulkheads are located on the lots adjacent to the proposed bulkhead and are no more than 75 feet apart;

2. The bulkhead shall be located at or above the spring high water line;

3. The bulkhead is located a minimum of five feet inshore of any wetlands;

4. The bulkhead shall not be located on a dune or oceanfront beach;

5. Clean fill from an upland source shall be used for backfill;

6. The bulkhead shall not be located further waterward than the bulkheads on the adjacent properties;

7. In the event that the bulkhead will be located landward of the adjacent bulkheads, the new bulkhead shall connect to the bulkhead on either side;

8. The construction of bulkheads subject to wave run up forces (V-zones) shall be designed and certified by a professional engineer to withstand the forces of wave run-up, and shall include a splash pad on the landward side. The splash pad shall have a minimum width of 10 feet, and shall be constructed of concrete, asphalt or other erosion resistant material. If a cobblestone or similar splash pad is utilized, appropriate sub-base and filter cloth shall be incorporated into the design;

9. The placement of rip-rap along the seaward toe of the bulkhead structure may qualify for this coastal general permit if the Department determines that such rip rap is required to limit scour potential and the areas and volume of rip rap are minimized; and

10. There shall be no disturbance to wetlands during construction.

(b) This general permit is not available for activities subject to the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.

(c) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:

i. The mean high and spring high tide lines of the tidal waters at the site;

ii. The upper and lower limits of wetlands, beach and dunes areas;

iii. Existing features both at the site and on adjacent waterfront sites including all waterfront structures and existing bulkhead and other retaining structures; and

iv. The proposed new bulkhead including returns and tie backs and splash pad if located within the V-Zone; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed bulkhead and associated fill complies with (a) and (b) above, including supplemental documents as appropriate, such as maps and survey.

New Rule, R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

**7:7-7.19 Coastal general permit for the construction of piers, docks including jet ski ramps, pilings and boatlifts in man-made lagoons**

(a) This coastal general permit authorizes the construction of piers, docks (including jet ski ramps), pilings and boatlifts in man-made lagoons provided that:

1. The structures shall be located on individual single family or duplex lots and shall be for recreational/non-commercial use;

2. The structures, including mooring area and mooring piles, shall not extend beyond a distance of 20 percent of the width of a man-made lagoon;

3. The width of the dock or pier shall not exceed twice the clearance between the structure and the surface of the ground below or the water surface at mean high water, except for floating docks. For example, an eight foot wide dock must be elevated a minimum of four feet above the water surface at mean high water;

4. The maximum width of the structure shall be eight feet, except where crossing wetlands, where the proposed structure shall be constructed perpendicular to the shoreline to access sufficient water depth and shall not exceed six feet in width. In any case, the height of the structure over wetlands shall be a minimum of four feet;

5. Any wetlands disturbed during construction shall be restored to pre-project conditions;

6. The proposed structure, including mooring areas and mooring piles, does not hinder navigation or access to adjacent docks, piers, moorings or water areas;

7. A minimum of eight feet of open water shall be provided between any docks including jet ski ramps, if the combined width of any existing or proposed docks over the water exceeds eight feet;

8. For docks which are perpendicular to the adjacent bulkhead or shoreline, construction and placement of the dock shall be a minimum of four feet from all property lines;

9. The space between horizontal planking is maximized and the width or horizontal planking is minimized to the maximum extent practicable. Under normal circumstances, a minimum of  $\frac{3}{8}$  inch,  $\frac{1}{2}$  inch,  $\frac{3}{4}$  inch or one inch space is to be provided for four inch, six inch, eight to 10 inch, or 12 inch plus wide planks respectively;

10. Jet ski ramps are inclined floating docks which are typically attached to existing docks for the purpose of docking jet skis. Jet ski ramps shall not exceed eight feet in width; and

11. For sites which have existing dock structures exceeding eight feet in width over water areas and/or wetlands, which were constructed prior to September 1978 and for which the applicant proposes to increase the coverage over the water area or wetland by increasing the number or size of boat slips, docks or piers, the existing oversized structures shall be reduced to a maximum of eight feet in width.

(b) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall also be submitted:

1. Three copies of a site plan(s) showing the following:

i. The mean high and mean low water lines of the tidal waters at the site;

ii. The upper and lower limits of wetlands at the site;

iii. Existing structures including all waterfront structures (docks, pilings and bulkheads) on the project site and adjacent waterfront properties;

iv. The opposite side of the lagoon with the width of the lagoon indicated; and

v. The proposed structures and boat mooring area; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed dock, pier, jet ski ramp, pilings or boat lift complies with (a) above, including supplemental documents as appropriate such as maps or surveys.

New Rule, R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Amended by R.2006 d.142, effective April 17, 2006.

See: 37 N.J.R. 4108(a), 38 N.J.R. 1657(a).

In (a)2 and 6, added “, including mooring areas and mooring piles;”, in (b)iv, added “with the width of the lagoon indicated”.

**7:7-7.20 Coastal general permit for minor maintenance dredging in man-made lagoons**

(a) This coastal general permit authorizes minor maintenance dredging in man-made lagoons provided that:

1. The volume of the material to be dredged shall not exceed 100 cubic yards;

2. The proposed depth shall not exceed six feet below mean low water;

3. Dredged material shall be placed on an upland site and shall be stabilized;

4. The proposed slope from the waterward edge of any wetlands to the nearest edge of the dredged area shall not exceed three horizontal to one vertical; and

5. The proposed depth does not exceed the water depth outshore of the dredged area.

(b) In addition to the application information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:

i. The mean high and mean low water lines of the tidal waters at the site;

ii. The upper and lower limits of wetlands on site and on adjacent lagoonfront properties;

iii. The existing and proposed water depths in the area to be dredged;

iv. Proposed cross sections of area to be dredged;

v. The location of the dredged material disposal site;

vi. The method of dredging; and

vii. The method of stabilization of dredging material; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed minor maintenance dredging complies with (a) above, including supplemental documents as appropriate, such as maps or surveys.

New Rule, R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

#### **7:7-7.21 Coastal general permit for the stabilization of eroded shorelines**

(a) This coastal general permit authorizes the stabilization of eroded shorelines along tidal waterways, excluding the Atlantic Ocean, provided that the proposed method complies with all of the following:

1. The stabilization materials are limited to live branch cuttings, live facings, live stakes, vegetative cuttings, vegetated earth buttresses, choir fiber products, fiber plugs, plants and clusters, selected plant materials, fiber pallets, fiber carpet, and wood stake anchor systems. Materials shall be installed in accordance with the construction guidelines of Chapter 16—"Streambank and Shoreline Stabilization Protection," of the National Engineering Handbook (NEH), Part 650, 1996, published by the United States Department of Agriculture, incorporated herein by reference, as amended and supplemented. This coastal general permit does not authorize the use of geotubes, stone, concrete, gabions, wood sheathing, pvc pipe, used tires, discarded Christmas trees, or other material not specifically stated in this paragraph;

2. The stabilization of the eroded shoreline shall have no adverse impact on Special Areas defined at N.J.A.C. 7:7E-3;

3. No disturbance to wetlands shall occur;

4. Where shoreline stabilization will occur outshore of a wetland, the construction shall result in minimum feasible alteration or impairment of natural tidal circulation;

5. Where shoreline stabilization will occur outshore of a wetlands, the construction shall result in minimum feasible alteration or impairment of the natural contour or the natural vegetation of the wetlands;

6. For sites where grading is required, no grading shall occur below the spring high water line, and all soil or other graded materials shall be pulled back away from the water. Grading by pushing soil or other material below the spring high water line is prohibited;

7. The placement of bioengineering materials, with the exception of plantings, shall be limited to that necessary to protect the shoreline;

8. Plant material shall be chosen and installed in accordance with "Vegetation For Tidal Shoreline Stabilization In the Mid-Atlantic States" in Chapter 16—"Streambank and Shoreline Stabilization Protection," of the National Engineering Handbook (NEH), Part 650, 1996, published by the United States Department of Agriculture, incorporated herein by reference, as amended and supplemented.

9. For projects on public lands, public access to the waterfront shall be provided and maintained during construction, and thereafter; and

10. If the Department determines that construction has resulted in adverse shoreline sand movement, including erosion or shoaling, the Department may require the permittee to remove the shoreline stabilization materials.

(b) In addition to the applications and information required under N.J.A.C. 7:7-7.3, the following information shall also be submitted:

1. Three copies of a site(s) plan showing the following:

i. Mean high, mean low and spring high water lines of the tidal waters at the site;

ii. Existing waterfront structures at the site and on adjacent waterfront sites;

iii. The upper and lower limits of wetlands, beach areas, and dune areas at the site and on adjacent waterfront properties;

iv. The location and cross section of the proposed stabilization materials in relationship to mean high and mean low water; and

v. On public lands, the location of the existing and proposed public access to the waterfront; and

2. A compliance statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed stabilization of the eroded shoreline complies with (a) above, including supplemental documents as appropriate, such as maps and surveys.

New Rule, R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

**7:7-7.22 Coastal general permit for avian nesting structures**

(a) This coastal general permit authorizes the construction of pile supported avian nesting structures provided:

1. The construction shall not alter or impair the natural contour or vegetation of the wetlands. Protective measures such as wide track vehicles and mats shall be utilized during construction;

2. Disturbance to wetlands is restored except for those permanently impacted by the pilings; and

3. The construction of the pile supported nesting structure shall not adversely impact Special Areas as defined at N.J.A.C. 7:7E-3.

(b) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall also be submitted:

1. Three copies of a site plan(s) showing the following:

i. The location of the proposed nesting structure;

ii. Mean high water line of the tidal waters at the site;

iii. Existing features at the site including structures, and all Special Areas as defined at N.J.A.C. 7:7E-3, including the upper and lower limits of wetlands, beach areas, and dune areas; and

iv. Details of the proposed nesting structure.

New Rule, R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

**7:7-7.23 Coastal general permit for modification of existing electrical substations**

(a) This coastal general permit authorizes the modification of existing electrical substations within the existing fence line to maintain substation and electrical load and system reliability provided that:

1. The activities occur within the cleared, maintained portions of the site within the existing fenced area; and

2. The activities shall not have an adverse impact on Special Areas as defined at N.J.A.C. 7:7E-3.

(b) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall also be submitted:

1. Three copies of a site plan(s) showing:

i. Existing fence, existing limits of clearing, existing and proposed structures; and

ii. The upper and lower limits of any wetlands within 150 feet of the fenced area; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed modification to the existing electrical substation complies with (a) above, including supplemental documents as appropriate, such as maps and surveys.

New Rule, R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

**7:7-7.24 Coastal general permit for the legalization of the filling of tidelands**

(a) This coastal general permit authorizes the legalization of the filling of any lands formerly flowed by the tide provided:

1. The filling occurred after 1914;

2. The fill appears on the applicable Tidelands Map adopted by the Tidelands Resource Council (base map photography dated 1977/78); and

3. Public access shall be provided in accordance with the public access to the waterfront rule, N.J.A.C. 7:7E-8.11.

(b) The legalization of the filling of any lands formerly flowed by the tide associated with a single family home that is not part of a larger development, is eligible for a permit-by-rule. See N.J.A.C. 7:7-7.2(a)9.

(c) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:

i. The location of the tidelands claim line as shown on the applicable Tidelands Map adopted by the Tidelands Resource Council (base map photography dated 1977/78) and current mean high water line at or adjacent to the site; and

ii. The location of all existing and proposed public access areas;

2. Proof that a tidelands instrument has been obtained for all filled tidelands areas or evidence that an application for a tidelands instrument has been submitted to the Bureau of Tidelands Management. This coastal general permit authorization shall not be valid until the permittee has received a tidelands instrument; and

3. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the site complies with the public access to the waterfront rule, N.J.A.C. 7:7E-8.11.

New Rule, R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

**7:7-7.25 Coastal general permit for the construction of telecommunication towers**

(a) This coastal general permit authorizes the construction of telecommunication towers such as cellular telephone and radio towers, including access roads and associated support buildings located upland of the mean high water line provided:

1. The development shall not be located in or on dunes, beaches, wetlands, bay islands, coastal bluffs or wild and scenic river corridors;
2. The limits of disturbance associated with the development shall not exceed 0.25 acres;
3. The development shall be located a minimum of 50 feet landward of the mean high water line except on sites defined as filled water's edge sites at N.J.A.C. 7:7E-3.23 where the development shall instead be located a minimum of 100 feet landward of the mean high water line;
4. The development shall be setback a minimum of 50 feet from the inland limit of any wetlands; and
5. The development shall comply with the endangered or threatened wildlife or vegetation species habitats rule, N.J.A.C. 7:7E-3.38, and the critical wildlife habitat rule, N.J.A.C. 7:7E-3.39.

(b) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:
  - i. The proposed development including all limits of disturbance, structures, grading and clearing;
  - ii. All existing features at the site including the mean high and spring high water lines, and the upper limits beaches and dunes; and
  - iii. The upper limits of wetlands and coastal bluffs on and adjacent to the site; and
2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed telecommunication tower complies with (a) above, including supplemental documents as appropriate, such as maps and surveys.

New Rule, R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

**7:7-7.26 Coastal general permit for the construction of certain structures related to the tourism industry at hotels and motels, commercial developments and multi-family residential developments over 75 units**

(a) This coastal general permit authorizes the construction of structures such as equipment storage containers and sheds, stage platforms, bleachers, portable restrooms, food concession stands, gazebos, lockers, canopied shelters, and wooden walkways related to the tourism industry, at hotels and motels, commercial developments and multi-family residential developments over 75 units provided:

1. The structure remains in place only from May 1 through October 31;
2. The structure is not located on a dune, coastal bluff, or in a wetland;
3. Placement of the structure does not include the excavation, grading or filling of a beach;
4. The structure shall have no adverse impact on Special Areas defined at N.J.A.C. 7:7E-3;
5. The structure is located a minimum of 50 feet landward of the mean high water line, except on beaches where the development is located on the most landward portion of the beach. Development on beaches shall additionally be subject to the following:
  - i. The development shall occupy a maximum of 33 percent of the total width of the beach berm area within the limits of the project; and
  - ii. The total area of beach coverage, including all structures and support facilities, shall not exceed one acre. However, the Department reserves the right to limit the coverage to a greater extent due to prevailing beach conditions, public access and safety concerns;
6. The structure is located a minimum of 50 feet from any wetlands;
7. If the structure is proposed on a beach, the structure does not unreasonably conflict with ocean views or other beach uses;
8. If the structure is proposed on a beach, the beach is open to the public;
9. Public access shall be maintained or provided in accordance with the public access to the waterfront rule, N.J.A.C. 7:7E-8.11; and
10. Where the structure(s) is located on a beach, on or prior to April 1 of each year, and for each year of the duration of the permit, the permittee shall submit to the Department, for its review and approval, three copies of a revised site plan, dated no more than 30 days prior to the submittal, including supplemental documents as appropriate, showing:

- i. The location of the beach berm area; and
- ii. Compliance with (a)2 through 9 above. Based on review of this information, the Department may approve the structure(s) as proposed or require modifications to the footprint or design of the structures to comply with these standards.

(b) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:
  - i. The mean high water line of the tidal waters at the site;
  - ii. The location and type of all proposed structures; and
  - iii. The upper limits of wetlands and beach and dune areas, and endangered and threatened wildlife or vegetation habitats; and
2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed recreational facility complies with (a) above, including supplemental documents as appropriate such as maps or surveys.

(c) Seasonal and temporary structures related to the tourism industry at public developments are not regulated as public development under CAFRA pursuant to N.J.A.C. 7:7-1.3 and 2.1(b)2viii.

New Rule, R.2000 d.428, effective October 16, 2000.  
See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).  
Amended by R.2006 d.142, effective April 17, 2006.  
See: 37 N.J.R. 4108(a), 38 N.J.R. 1657(a).

In introductory paragraph (a), added "structures such as"; in (a)1, substituted "October 31" for "September 30"; in (a)5, added "Development on beaches shall additionally be subject to the following:" and added (a)5i and ii; added (a)9 and 10.

#### **7:7-7.27 Coastal general permit for geotechnical survey borings**

(a) This coastal general permit authorizes geotechnical survey borings including survey borings or excavations constructed for the purpose of obtaining information on subsurface conditions, for the purpose of determining the presence or extent of contamination in subsurface soils or groundwater, and for obtaining seismic information, provided the following conditions are met.

1. Borings and related site disturbance shall not be located in Shellfish habitat (N.J.A.C. 7:7E-3.2), Submerged vegetation habitat (N.J.A.C. 7:7E-3.6) or Endangered or threatened wildlife or plant species habitats (N.J.A.C. 7:7E-3.38).
2. Borings and related site disturbance shall comply with Wild and scenic river corridors, (N.J.A.C. 7:7E-3.46),

Wetlands (N.J.A.C. 7:7E-3.27), and Wetlands buffers (N.J.A.C. 7:7E-3.28).

3. Borings for remedial investigation shall be completed in accordance with the criteria found in N.J.A.C. 7:26E-3 of the Technical Requirements for Site Remediation;

i. Any excavation shall not adversely impact existing remedial investigation/remediation assessment (RI/RA) activities;

ii. Workers on-site shall be notified, in writing, prior to the start of site preparation, of the possible presence of contaminated materials. Appropriate measures shall be taken to protect workers from exposure to possible contaminants; and

iii. Potential impact to existing monitoring wells shall be reported to the Department's Office of Site Remediation to coordinate appropriate measures required to protect or seal/replace the monitoring wells. Sealing of monitoring wells shall be done by a licensed New Jersey well driller who is also certified to seal wells.

4. Disturbance shall be limited to that which is necessary to access and conduct the geotechnical borings.

i. Disturbance to vegetation shall, be limited to a maximum width of five feet for access.

5. Borings and related site disturbance shall not be conducted during the following time periods:

i. During the migration of anadromous fish from April 1 thru June 30 (inclusive);

ii. During the period from March 1 thru June 30 and from October 1 thru November 30 (inclusive), within and adjacent to waters on the Delaware River System from the mouth of bay to Delaware Memorial Bridge and tidal Maurice River, identified as American shad migratory pathways; and

iii. During the period from April 1 thru June 30 and from September 1 thru November 30 (inclusive), within and adjacent to waters on the Delaware River System from the Delaware Memorial Bridge to the New York State line and tidal portions of Rancocas and Raccoon Creeks, identified as American shad migratory pathways.

6. Any acid-producing soils encountered shall be managed in accordance with the requirements for a regulated activity in an area with acid-producing soils in the Flood Hazard Area Control Act rules (N.J.A.C. 7:13).

7. Bore holes shall be backfilled to the original surface level with appropriate, non-contaminated, soil material.

i. Sand may not be used for backfilling in either freshwater or coastal wetlands. Restoration of all bore holes must maintain the hydrologic integrity of the

wetlands. To avoid the potential for draining a wetland by puncturing a hard-pan or confining layer, all borings must be sealed with grout or bentonite in accordance with the Department's Water Monitoring Management Program rules, N.J.A.C. 7:9-6.

ii. Water used to flush a boring may be discharged to the ground provided the boring is not conducted in proximity to a stream or in an area of hazardous waste or acid-producing soils. When the boring is performed in proximity to a stream, and water or drilling fluid is used to remove soil from the hole, the sediment-laden water shall not be allowed to flow overland such that it would enter the stream. Soil erosion and sediment control measures shall be used as necessary to contain/filter excess water. Drilling fluid shall be contained when working adjacent to a fish-populated watercourse during the relevant restricted period, and in any other situation where containment represents the only method of ensuring that there is no impact to adjacent streams.

(b) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:
  - i. The mean and spring high water lines of the tidal waters at or in proximity to the site;
  - ii. For activities proposed at or upland of the mean high water line, existing features at the site including topography and structures, and the limits of wetlands, dune areas, beach areas, flood hazard areas, coastal bluffs and vegetation;
  - iii. For activities proposed at or waterward of the mean water line, existing features at the site including areas designated as shellfish habitat, submerged vegetation habitat, topography and structures, and the limits of wetlands;
  - iv. Existing roads and utilities immediately adjacent to the site;
  - v. Location of proposed activities, methods, equipment to utilized and limits and depth of all proposed borings; and
  - vi. All grading, clearing and limits of disturbance;

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed development complies with the criteria listed in (a) above, including supplemental documents as appropriate such as maps or surveys.

New Rule, R.2006 d.142, effective April 17, 2006.  
 See: 37 N.J.R. 4108(a), 38 N.J.R. 1657(a).  
 Amended by R.2007 d.340, effective November 5, 2007.  
 See: 38 N.J.R. 3950(a), 39 N.J.R. 4573(a).  
 Rewrote (a)6.

#### 7:7-7.28 (Reserved)

#### 7:7-7.29 Coastal general permit for habitat creation and enhancement activities

(a) This coastal general permit authorizes habitat creation and enhancement activities necessary to implement a plan for the restoration, creation, or enhancement of the habitat, water quality functions and values of wetlands, wetland buffers, and open water areas, which is sponsored or substantially funded by a Federal or State agency or other entity described in (b) below. For the purposes of this general permit, a "sponsor" shall be an active participant in or substantial financial contributor to the activities, and shall endorse the activities in writing.

(b) The following habitat creation and enhancement plans are acceptable provided they demonstrate compliance with (c) through (g) below:

1. A fish and/or wildlife management plan created or approved by the Department's Division of Fish and Wildlife;
2. A project plan approved under the Partners for Fish and Wildlife program, Coastal Program, or a similar program administered by the U.S. Fish and Wildlife Service;
3. A project plan created by the U.S. Department of Agriculture's Natural Resources Conservation Service under the Wetlands Reserve program, the Conservation Reserve program, the Conservation Reserve Enhancement program, the Wildlife Habitat Incentive program (WHIP), or a similar program, and approved by the local Soil Conservation District;
4. A plan approved by the Department's Office of Natural Resource Damages for the restoration, creation or enhancement of natural resources injured as the result of an oil spill or release of a hazardous substance;
5. A mitigation project required by and approved by a government agency, such as the U.S. Army Corps of Engineers;
6. A habitat creation or enhancement plan carried out by one of the Federal or State agencies at (b)1 through 5 above or by a government resource protection agency such as a parks commission; or
7. A habitat creation or enhancement plan carried out by a charitable conservancy, as defined at N.J.A.C. 7:7-1.3, provided that the plan is part of a program listed at (b)2 through 5 above.

(c) Habitat creation and enhancement activities that are authorized by this coastal general permit include, but are not limited to, the following:

1. Altering hydrology to restore or create wetlands conditions, such as by blocking, removing, or disabling a human-made drainage ditch or other drainage structure such as a tile, culvert or pipe;

2. Breaching a structure such as a dike or berm in order to allow water into an area;
3. Placing habitat improvement structures such as:
  - i. Nesting islands;
  - ii. Fencing to contain, or to prevent intrusion by, livestock or other animals; and
  - iii. Fish habitat enhancement devices or fish habitat improvement structures such as placed boulders, stream deflectors, or brush piles;
4. Regrading to provide proper elevation or topography for wetlands restoration, creation, or enhancement; and
5. Cutting, burning or otherwise managing vegetation in order to increase habitat diversity or control nuisance flora.

(d) To be eligible for authorization under this coastal general permit, an applicant shall demonstrate that the proposed project:

1. Is part of a comprehensive plan for the restoration, creation or enhancement of the habitat and water quality functions and values of wetlands, wetland buffers, and/or State open waters;
2. Is sponsored or partially funded by an appropriate entity in accordance with (b) above;
3. Is consistent with the requirements of the Wetlands Act of 1970, the Waterfront Development Law, the Coastal Area Facility Review Act and the Coastal Zone Management rules;
4. Will improve the values and functions of the ecosystem; and
5. Will have a reasonable likelihood of success.

(e) Activities under this coastal general permit shall comply with the following:

1. If the proposed habitat creation or enhancement activity is to take place in Special Areas, as defined at N.J.A.C. 7:7E-3, the coastal general permit authorization shall be issued only if the Department finds that there are no practicable alternatives that would involve less or no disturbance or destruction of Special Areas;
2. The activities shall disturb the minimum amount of Special Areas as defined at N.J.A.C. 7:7E-3 necessary to successfully implement the project plan;
3. The activities shall not decrease the total combined area of Special Areas on a site. However, the Department may approve a decrease if the Department determines that the activities causing the decrease are sufficiently environmentally beneficial to outweigh the negative environmental effects of the decrease. In addition, the Department may approve conversion of one Special Area to another Special Area if the Department determines that such conversion is environmentally beneficial;

4. If the activities involve the removal of a dam, the activities shall be conducted in accordance with a permit issued pursuant to N.J.A.C. 7:20 by the Department's Dam Safety Section in the Division of Engineering and Construction; and

5. A conservation restriction for the habitat creation or enhancement area is recorded in accordance with N.J.A.C. 7:7-1.5(b)18.

(f) This coastal general permit does not authorize an activity unless the sole purpose of the activity is habitat creation or enhancement. For example, this coastal general permit does not authorize construction of a detention basin in wetlands for stormwater management, even if the detention basin or the project of which the basin is a part will also result in habitat creation or enhancement.

(g) In addition to the application and information required under N.J.A.C. 7:7-7.3, the following information shall be submitted:

1. Three copies of a site plan(s) showing the following:
  - i. The mean high and spring high tide lines of the tidal waters at the site;
  - ii. The upper and lower limits of wetlands and wetlands buffers, beaches, dunes, and coastal bluff areas;
  - iii. Limits of all intertidal and subtidal shallows, submerged vegetation, and shellfish habitat areas;
  - iv. Existing features both at the site and on adjacent waterfront sites including all waterfront structures and existing bulkheads, other retaining structures, and culverts;
  - v. Existing roads and utilities immediately adjacent to the site; and
  - vi. The limits and depth of all proposed excavation, proposed grading or fill; and

2. A Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed project complies with (a) through (g) above, including supplemental documents as appropriate, such as maps and survey.

New Rule, R.2006 d.142, effective April 17, 2006.  
See: 37 N.J.R. 4108(a), 38 N.J.R. 1657(a).

## SUBCHAPTER 8. ENFORCEMENT

### **7:7-8.1 Authority for N.J.S.A. 13:19-1 et seq. (CAFRA) and N.J.S.A. 12:5-1 et seq. (Waterfront Development)**

(a) Whenever the Department finds that a person has violated any provision of N.J.S.A. 13:19-1 et seq., or any regulation, rule, permit, or order adopted or issued by the Department pursuant thereto, the Department may, singly or

in combination, and in accordance with the grace period requirements set forth at N.J.A.C. 7:7-8.14, pursue the remedies specified in (a)1 through 4 below. Pursuit of any of the remedies specified under this section shall not preclude the seeking of any other remedy specified.

1. Issue an order requiring the person found to be in violation to comply in accordance with N.J.A.C. 7:7-8.2;
2. Bring a civil action for injunctive and other relief in accordance with N.J.A.C. 7:7-8.13;
3. Levy a civil administrative penalty in accordance with N.J.A.C. 7:7-8.5 or 7:7-8.6; and/or
4. Bring an action for a civil penalty in accordance with N.J.A.C. 7:7-8.7.

(b) Any development or improvement enumerated in N.J.S.A. 12:5-3 and in N.J.S.A. 13:1D-29 et seq., or included within any rule or regulation adopted pursuant thereto, which is commenced or executed without first obtaining approval, or contrary to the conditions of approval, as provided in N.J.S.A. 12:5-3 and in N.J.S.A. 13:1D-29 et seq., shall be deemed to be a purpresture, a public nuisance and a violation of N.J.S.A. 12:5-1 et seq. and shall be abated in the name of the State by one or more of the following actions:

1. The issuance of an administrative order in accordance with N.J.A.C. 7:7-8.2;
2. The commencement of a civil action by the Department in Superior Court for injunctive or other appropriate relief in accordance with N.J.A.C. 7:7-8.13; and/or
3. The levying of an administrative penalty by the Department in accordance with N.J.A.C. 7:7-8.10 and 8.11.

(c) The Department has the power, as enumerated in N.J.S.A. 13:1D-9, and consistent with constitutional requirements, to enter and inspect any building or place for the purposes of ascertaining compliance or noncompliance with any codes, rules and regulations of the Department.

Amended by R.2007 d.242, effective August 20, 2007.  
See: 38 N.J.R. 2907(a), 39 N.J.R. 3517(a).

In (a), inserted "and in accordance with the grace period requirements set forth at N.J.A.C. 7:7-8.14," and substituted "(a)1 through 4" for "1 through 4".

**7:7-8.2 Procedures for issuing an administrative order pursuant to N.J.S.A. 13:19-1 et seq. (CAFRA) and N.J.S.A. 12:5-1 et seq. (Waterfront Development)**

(a) Whenever the Department finds that a person has violated any provision of N.J.S.A. 13:19-1 et seq., or any regulation, rule, permit, or order adopted or issued by the Department pursuant to N.J.S.A. 13:19-1 et seq., the Department may issue an order specifying the provision or provisions of

the act, regulation, rule, permit, or order of which the person is in violation citing the action which constituted the violation, ordering abatement of the violation, and giving notice to the person of his or her right to a hearing on the matters contained in the order. The ordered party shall have 20 days from receipt of the order within which to deliver to the Department a written request for a hearing in accordance with N.J.A.C. 7:7-8.4. After the hearing and upon finding that a violation has occurred, the Department may issue a final order. If no hearing is requested, then the order shall become final after the expiration of the 20-day period. A request for hearing shall not automatically stay the effect of the order.

(b) Any development or improvement commenced or executed in violation of the Waterfront Development Act, N.J.S.A. 12:5-1 et seq., may be abated by the State by the issuance of an administrative order by the Commissioner specifying that there has been a violation of the provisions of this section, or any applicable rule, regulation or permit; setting forth the facts forming the basis for the issuance of the order; and specifying the course of action necessary to correct the violation. Procedures to request a hearing on an administrative order issued pursuant to this subsection are contained in N.J.A.C. 7:7-8.11.

**7:7-8.3 Procedures for assessment, settlement and payment of civil administrative penalties for violations of N.J.S.A. 13:19-1 et seq. (CAFRA)**

(a) To assess a civil administrative penalty under N.J.S.A. 13:19-1 et seq., the Department shall notify the violator by certified mail (return receipt requested) or by personal service. This Notice of Civil Administrative Penalty Assessment (NOCAPA) shall:

1. Identify the section of the statute, rule, administrative order or permit violated;
2. Concisely state the alleged facts which constitute the violation;
3. Specify the amount of the civil administrative penalty to be imposed and the fact that interest may be due in accordance with (c) below; and
4. Advise the violator of the right to request an adjudicatory hearing pursuant to the procedures in N.J.A.C. 7:7-8.4.

(b) Payment of the civil administrative penalty is due upon receipt by the violator of the Department's final order in a contested case, or when a notice of civil administrative penalty assessment becomes a final order, as follows:

1. If no hearing is requested pursuant to N.J.A.C. 7:7-8.4, a notice of civil administrative penalty assessment becomes a final order and is deemed received on the 21st

day following receipt of the notice of civil administrative penalty assessment by the violator;

2. If the Department denies the hearing request pursuant to N.J.A.C. 7:7-8.4(b), a notice of civil administrative penalty assessment becomes a final order on the 21st day following receipt of the notice of civil administrative penalty assessment by the violator;

3. If the Department denies the hearing request pursuant to N.J.A.C. 7:7-8.4(c), a notice of civil administrative penalty assessment becomes a final order upon receipt of notice of such denial; or

4. If the Department grants the hearing request, a notice of civil administrative penalty assessment becomes a final

order upon receipt by the violator of a final order in a contested case.

(c) In addition to the amount of the civil administrative penalty that is due and owing pursuant to (b) above, the violator shall also pay to the Department the interest on the amount of the penalty, at the rate established by the New Jersey Supreme Court for interest rates on judgments as set forth in the Rules Governing the Courts of the State of New Jersey. Interest shall accrue on the amount of the civil administrative penalty due and owing from the date the payment is due and continuing until the civil administrative penalty is paid in full with interest if: