

(m) The applicant shall transfer any PDCs required under (l) above to the Department, or to a nonprofit or governmental agency designated by the Department, prior to beginning activities authorized under general permit 23, and no later than 90 days after receiving the general permit authorization. The Department or its designee shall convey the PDCs to the Pinelands Development Credit Bank in accordance with the MOA established under (n) below, and shall use the resulting funds to establish and/or restore Atlantic white-cedar wetlands in the Pinelands.

(n) The Department shall enter into a memorandum of agreement (MOA) with the Pinelands Commission and the Pinelands Development Credit Bank. The MOA shall include a general plan for implementing the Atlantic white-cedar restoration program required by this section, and shall:

1. Identify at least one potential site for Atlantic white-cedar restoration;
2. Include a requirement for at least one acre of Atlantic white-cedar restoration for each acre of Atlantic white-cedar wetlands lost and/or disturbed under general permit 23;
3. Include clear success criteria for the Atlantic white-cedar restoration program; and
4. Ensure that Atlantic white-cedar restoration efforts will not adversely impact existing areas of forested wetlands.

(o) To minimize impacts to freshwater wetlands and/or State open waters, a permittee under general permit 23 shall:

1. Follow, to the maximum extent practicable, the management practices recommended by the Rutgers Cranberry and Blueberry Experiment Station;
2. Stabilize all disturbed areas in accordance with the New Jersey Field Office Technical Guide, 1998 edition, as amended and supplemented, issued by the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS), available from the NRCS at 1370 Hamilton Street, Somerset, New Jersey 08873;
3. Use only suitable, clean, non-toxic fill material;
4. Use integrated pest management techniques; and
5. Design and carry out the activities to avoid irreversible adverse impacts on the survival of any local populations of threatened or endangered plants of the Pinelands, consistent with the Pinelands Comprehensive Management Plan at N.J.A.C. 7:50-6.27.

(p) The requirements of (c), (j), (k), (l), and (m) above shall not apply to the proposed activities under general permit 23 if the Department determines that the activities:

1. Will improve water conservation or water quality; and

2. Will result in a loss and/or disturbance of one half acre or less of freshwater wetlands and/or State open waters at that cranberry growing operation during the five year term of the general permit.

(q) Each year, the Commissioner shall make a finding as to whether the pace of impacts under the general permit is proportional to the pace of Atlantic white-cedar restoration efforts. The Commissioner shall consult with the Pinelands Commission, and shall consider, among other factors, whether restoration efforts are making reasonable progress towards the goals in the Department's overall plan for Atlantic white-cedar restoration. The Department shall publish the Commissioner's finding as a public notice in the New Jersey Register by October 31 of each year:

1. If the Commissioner finds that the pace of impacts is proportional to the pace of restoration efforts, the Department shall publish a finding of continuance of the general permit. A finding of continuance shall remain in effect until the next October 31 following the publication of the finding; or

2. If the Commissioner finds that the pace of impacts is out of proportion to the pace of Atlantic white-cedar restoration efforts, the Department shall publish a finding of temporary hold of general permit authorizations, and shall stop issuing authorizations under general permit 23. A finding of temporary hold shall remain in effect until the Commissioner determines that the pace of impacts under the general permit has again become proportional to restoration efforts, and the Department publishes a finding of continuance.

(r) The Commissioner reserves the right (that is, discretion) to modify, suspend, or revoke general permit 23 authorizations. Modification means the imposition of additional or revised terms or conditions on the authorization. Suspension means the temporary cancellation of the authorization while a decision is made to either modify, revoke, or reinstate the authorization. Revocation means the cancellation of the authorization. The Commissioner may assert discretionary authority by modifying, suspending, or revoking general permit 23 authorizations for a specific geographic area or class of waters, whenever the Commissioner determines sufficient concerns for the environment under the Freshwater Wetlands Protection Act or the Federal Section 404(b)(1) Guidelines, or if the Commissioner otherwise determines that the general permit would result in more than minimal adverse environmental effects either individually or cumulatively. Whenever the Commissioner determines that a proposed specific activity covered by general permit 23 would have more than minimal individual or cumulative adverse effects on the environment, the Commissioner shall either modify the general permit 23 authorization to reduce or eliminate the adverse impacts, or notify the prospective permittee that the proposed activity is not authorized by general permit 23 and provide instructions on how to seek authorization under an individual permit. The Commissioner shall restore authoriza-

tion under general permit 23 at any time that the Commissioner determines that the reason for asserting discretionary authority has been satisfied by a condition, project modification, or new information.

(s) An application for authorization under general permit 23 shall be submitted within 90 days after the general permit becomes operative under (u) below. Within 180 days after general permit 23 becomes operative, the Department shall make a final decision on all applications submitted within the 90-day deadline. Thereafter, applications shall be submitted to the Department by January 1 of each year. The Department shall issue decisions on applications by March 1 of each year.

(t) If the Department receives applications for authorization under general permit 23 which would, if approved, result in a total Statewide loss and/or disturbance of freshwater wetlands and/or State open waters that exceeds the limits at (i) above, the Department shall give priority to applications involving areas with the lowest number rankings on the list at (d) above, taking into consideration overall environmental impacts. If two or more applications involve similarly ranked land and similar environmental impacts, the Department shall give priority to the application submitted and determined complete under N.J.A.C. 7:7A-9.5(d) first.

(u) General permit 23 shall become operative as of the date that the Department publishes a notice in the New Jersey Register announcing that:

1. The Department has signed the Memorandum of Agreement required under (n) above; and
2. Twenty-five thousand dollars has been deposited from public sources to the fund established by the Department under the Memorandum of Agreement for the implementation of the Atlantic white-cedar restoration program.

(v) In order to ensure compliance with the Endangered Species Act of 1973, 16 U.S.C. §§1531 et seq., general permit 23 will be added to the list of general permits subject to coordination procedures with the U.S. Fish and Wildlife Service under the Department's Memorandum of Agreement regarding the Endangered Species Act and New Jersey's assumption of the Federal 404 program.

New Rule, R.1999 d.352, effective October 4, 1999.  
See: 31 N.J.R. 1562(a), 31 N.J.R. 2964(a).  
Operative Date of Statewide General Permit 23: April 3, 2000.  
See: 32 N.J.R. 1253(a).  
Amended by R.2001 d.312, effective September 4, 2001.  
See: 32 N.J.R. 2693(a), 33 N.J.R. 3045(a).  
Public Notice.  
See: 33 N.J.R. 4392(b).

#### 7:7A-5.24 General permit 24—Spring developments

(a) General permit 24 authorizes activities in farmed wetlands, or in State open waters, necessary for the construction of a spring development or other structure that diverts or collects water for the purpose of watering livestock. Activities authorized under general permit 24 include the installa-

tion of a collecting trench, a cutoff wall, crushed rock, perforated tubing, and/or a spring box. General permit 24 does not authorize diversion or use of water for irrigation, or for any purpose other than watering livestock. The activities authorized under general permit 24 constitute soil and water conservation practices that are exempt in transition areas under N.J.A.C. 7:7A-2.8(c)1.

(b) Activities under general permit 24 shall disturb no more than one quarter acre of freshwater wetlands and/or State open waters. Activities under general permit 24 shall not drain, or remove from jurisdiction, any additional or adjacent wetlands other than the one-quarter acre directly impacted by the general permit activities.

(c) An activity is authorized under general permit 24 only if:

1. The activity is necessary to implement a farm management plan developed by the Natural Resources Conservation Service and approved by the appropriate Soil Conservation District;
2. The activity will be conducted at an established, ongoing farming, ranching or silviculture operation, as defined at N.J.A.C. 7:7A-1.4; and
3. The activity is located in a farmed wetland, as defined at N.J.A.C. 7:7A-1.4, that is eligible for a farmland assessment under the New Jersey Farmland Assessment Act, N.J.S.A. 54:4-23.1 et seq.

(d) Any portion of a spring development from which livestock will drink, such as a watering trough or tub, shall be located outside of wetlands and State open waters.

(e) Activities under general permit 24 shall comply with all applicable requirements at N.J.A.C. 7:7A-4.3, Conditions that apply to all general permits, and 13.2, Establishing permit conditions.

New Rule, R.2001 d.312, effective September 4, 2001.  
See: 32 N.J.R. 2693(a), 33 N.J.R. 3045(a).  
Amended by R.2008 d.291, effective October 6, 2008.  
See: 39 N.J.R. 3587(a), 40 N.J.R. 5581(a).  
In (e), inserted “, and 13.2, Establishing permit conditions”.

#### 7:7A-5.25 General permit 25—Malfunctioning individual subsurface sewage disposal (septic) systems

(a) General permit 25 authorizes activities in freshwater wetlands and transition areas necessary for the repair or modification of a malfunctioning individual subsurface sewage disposal system. General permit 25 does not authorize activities in State open waters.

(b) For the purpose of general permit 25:

1. “Individual subsurface sewage disposal system” means a system for disposal of sanitary sewage into the ground which is designed and constructed to retain most of