

COASTAL PERMIT PROGRAM RULES

iv. The maximum width of the structure shall be eight feet, except where crossing wetlands, mudflats, 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;

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

vi. The proposed structure does not hinder navigation or access to adjacent docks, piers, moorings or water areas;

vii. A minimum of eight feet of open water shall be provided between any docks if the combined width of any existing or proposed docks over the water exceeds eight feet;

viii. 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;

ix. 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 $+38$ 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;

x. 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

xi. 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 must be reduced to a maximum of eight feet in width.

16. Minor maintenance dredging in man-made lagoons is acceptable provided that:

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

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

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

iv. A 3:1 slope shall be maintained from the waterward edge of any wetlands to the nearest edge of the dredged area.

v. The proposed depth does not exceed the water depth offshore of and immediately adjacent to the dredged area.

(b) The Department may require an application for an individual permit instead of a General Permit if the Department finds that additional permit conditions would not be sufficient, or that special circumstances make this action necessary to ensure compliance with statutory requirements. The Department retains discretionary authority to require, on a case-by-case basis, submission of an individual permit application for any proposed activity when it is determined that such a review would be in the public interest and that the proposed activity has the potential to cause significant impacts on environmental resources. In addition, when a project in its entirety does not qualify for a general permit, then the entire project shall require an individual permit application.

(c) All General Permits shall be valid for a term not to exceed five years from the date of receipt from the Department. If the term of a General Permit applicable to a specific development exceeds the expiration date of the General Permit issued by rule, and the General Permit upon which the authorization was based is modified by rule to include more stringent standards or conditions, the permittee must comply with the requirements of the new regulations by applying for a new General Permit authorization unless construction is already underway. If the General Permit is not reissued, the applicant must apply for an individual permit unless construction pursuant to the prior General Permit is already underway.

1. For the purposes of this section, "construction" means having completed the foundations for buildings or structures, the subsurface improvements for roadways, or the necessary excavation and installation of bedding materials for utility lines. To determine if construction of a development or part of a development has begun by the date of expiration of the General Permit, the Department shall evaluate such proofs as may be provided by the applicant, including, but not limited to, the following: documentation that the local construction official has completed the inspection at N.J.A.C. 5:23-2.18(b)1i(2) or 2.18(b)1i(3) for foundations of structures; reports from the municipal engineer documenting inspections of road bed construction; or billing receipts documenting the completion of the above construction activities. "Construction" does not include clearing vegetation, bringing construction materials to the site, site grading or other earth work associated with preparing a site for construction.

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.1997 d.534, effective December 15, 1997.

See: 28 N.J.R. 4836(a), 29 N.J.R. 5287(a).

In (a)4, substituted "landward of the existing footprint of development" for "within the same footprint"; rewrote (a)4iii; and in (a)4iv, deleted the exception for repair or maintenance associated with an expansion of the footprint.

Law Review and Journal Commentaries

Implications of the New CAFRA Legislation. Michael J. Gross, Jeffrey S. Beenstock, 168 N.J.Law. 13 (Mag.) (April 1995).

Case Notes

Contractor penalized for dredging without permit. Department of Environmental Protection and Energy v. Gallagher, 95 N.J.A.R.2d (EPE) 28.

7:7-7.3 Application and review procedure for a General Permit authorization

(a) A person proposing to engage in an activity covered by a General Permit shall submit the following to the Department:

1. A completed LURP application form;
2. Photographs of the site for which authorization is being requested;
3. Verification that a complete copy of the application has been forwarded to the clerk of the municipality (white certified mail receipt or written receipt is required) and that a certified mail notice with return receipt requested (white receipts or green cards are acceptable) has been forwarded to the environmental commission, or any public body with similar responsibilities, as well as to municipal planning board, county planning board, municipal construction official, and to all owners of real property surrounding and sharing a property boundary at any point on the perimeter of the proposed development. The notice shall read as follows:

“This letter is to provide you with legal notification that an application will be submitted to the New Jersey Department of Environmental Protection, Land Use Regulation Program for a General Permit for (describe the proposed development).

The complete permit application package can be reviewed at either the municipal clerk's office or by appointment at the DEP's Trenton office. The Department of Environmental Protection welcomes comments and any information that you may provide concerning the proposed development and site. Please submit your written comments within 15 days of receiving this letter. Your comments should be sent along with a copy of this letter to:

New Jersey Department of Environmental Protection
Land Use Regulation Program
PO Box 401
5 Station Plaza
Trenton, New Jersey 08625
attn: (County in which property is located) Section Chief”

i. For beach and dune maintenance permit applications which involve more than one single family lot, the applicant shall provide public notice in the official newspaper of the municipality or in a newspaper of general circulation in the municipality if there is no official newspaper, and to all owners of real property, including easements as shown on current tax duplicate within 200 feet of an above ground structure (such as a boardwalk or dune walkover structure), rather than to the all owners of real property, including easements within 200 feet of the beach and dune maintenance activities.

ii. For additional development proposed on the site of an existing park facility of at least 50 acres in size, the Department may at its discretion eliminate, modify or reduce the requirement for individual notice to owners of real property, including easements, depending on the scope, location and anticipated impacts of the proposed development. For example, an applicant proposing to construct tennis courts located on one side of a 200 acre park facility might be required to notice only those property owners within the vicinity of the proposed tennis court.

4. A fee pursuant to N.J.A.C. 7:1C-1.5(a)3iii; and
5. Any additional information as outlined in (b) through (r) below.

(b) (Reserved)

(c) A person applying for a General Permit to expand an existing, functional amusement pier pursuant to N.J.A.C. 7:7-7.2(a)2 shall also submit written documentation containing:

1. A description of the location of the activity including county, municipality, lot(s) and block(s);
2. Documentation concerning the size of the footprint of the existing functional amusement pier and the size of the proposed expansion;
3. A copy of a site plan showing the location of the existing, functional amusement pier and the proposed location of the expansion;
4. Plans showing the existing and proposed direct public access points from the boardwalk to the beach; and
5. Plans showing the proposed public sitting and viewing area at the terminal end of the expansion.

(d) A person applying for a General Permit for beach and dune maintenance activities pursuant to N.J.A.C. 7:7-7.2(a)3 shall also submit:

1. A description of the location of the proposed activities, including county, municipality, lot(s) and block(s);

2. A plan showing the specific location of all proposed activities;
3. A description of the specific activities proposed for each location;
4. The name, title, address and phone number of the person(s) responsible for supervising the proposed activi-

ties to ensure compliance with the referenced standards; and

5. The schedule for conducting the specific activities.

(e) A person applying for a General Permit for voluntary reconstruction of an undamaged, legally constructed, serviceable structure or habitable residential or commercial development pursuant to N.J.A.C. 7:7-7.2(a)4 shall also submit:

1. Development plans clearly depicting the existing site and the proposed site, including size and location of the current and proposed footprint; and
2. For residential reconstruction, documentation that there will not be an increase in the number of dwelling units shall be provided. For commercial or other reconstruction, documentation that there will not be an increase in the number of parking spaces or equivalent parking area associated with the proposed reconstruction shall be provided.
3. A person wishing to relocate landward shall also submit plans showing the existing structures and site conditions with locations and dimensions, and all proposed structures, filling, grading, excavation and clearing.

(f) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)5, to construct a single family home or duplex not on a bulkheaded lagoon lot, shall also submit:

1. Three copies of a site plan showing the following:
 - i. The mean and spring high water lines of the tidal waters 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 and vegetation;
 - iii. Existing roads and utilities immediately adjacent to the site; and
 - iv. All proposed development, including all structures, grading and clearing; and
2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed development complies with the criteria listed in N.J.A.C. 7:7-7.2(a)5, including supplemental documents in the form of maps, surveys, etc.

(g) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)6 to expand a single family home or duplex shall also submit:

1. Three copies of a site plan showing the following:
 - i. The mean and spring high water lines of the tidal waters in proximity to the site;
 - ii. Existing features at the site including topography and structures, roads, and utilities, and the limits of wetlands, dune areas, beach areas, flood hazard areas and vegetation;
 - iii. Existing roads and utilities immediately adjacent to the site; and

iv. All proposed development, including all structures, grading and clearing; and

2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed development complies with the criteria listed in N.J.A.C. 7:7-7.2(a)6, including supplemental documents in the form of maps, surveys, etc.

(i) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)7 for the construction of a bulkhead and associated fill on a lot located on a substantially developed manmade lagoon shall also submit:

1. Three copies of a site plan 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;
 - iv. All proposed structures including deadmen, tie backs and returns; and

2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)7, including supplemental documents in the form of maps, surveys, etc.

(j) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)8 for the construction of a revetment at a single family/duplex lot on a waterbody shall also submit:

1. Three copies of a site 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 areas and dune areas at the site and on adjacent waterfront properties;
 - iv. Bulkheads or other retaining structures on adjacent properties;
 - v. The location and cross sections of the proposed revetment in relationship to mean high and mean low water; and

2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)8, including supplemental documents in the form of maps, surveys, etc.

(k) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)9 to construct marina support facilities shall submit:

1. Three copies of a site 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 structures, grading and clearing; and
 - v. The location of all existing and proposed public access areas;
2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)9, including supplemental documents in the form of maps, surveys, etc.; and
3. A copy of any previous coastal permit for the site.

(l) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)10 for the reconstruction of a legally existing bulkhead waterward of the mean high water line shall also submit:

1. Three copies of a site plan 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 pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)10, including supplemental documents in the form of maps, surveys, etc.

(m) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)11 for hazardous waste clean up shall also submit:

1. Three copies of a site plan 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 area of disturbance and method of clean up; and

iv. The restoration plan; and

2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)11, including supplemental documents in the form of maps, surveys, etc.

(n) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)12 for the landfall of utilities in tidal waterbodies shall also submit:

1. Three copies of a site plan 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 area of disturbance;

iv. The restoration plan;

v. The location of the existing and proposed utility;

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

2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)12, including supplemental documents in the form of maps, surveys, etc.

(o) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)13 for the construction of recreational facilities at existing public parks shall also submit:

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

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

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

2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)13, including supplemental documents in the form of maps, surveys, etc.

(p) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)14 for the construction of a bulkhead and associated fill at a single family/duplex lot on a natural waterbody shall also submit:

1. Three copies of a site plan showing the following:
 - i. The mean high, mean low and spring high tide lines of the tidal waters at the site;
 - ii. Existing features both at the site and on adjacent waterfront sites including all waterfront structures, existing bulkhead, and the upper and lower limits of wetlands, beach areas and dune areas;
 - iii. The proposed new bulkhead including returns and tie backs and splash pad if located within the V-Zone; and
 - iv. Bulkheads or other retaining structures on adjacent properties; and
2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)14, including supplemental documents in the form of maps, surveys, etc.

(q) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)15 for the construction of piers, docks, pilings and boatlifts in man-made lagoons shall also submit:

1. Three copies of a site plan 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 within 150 feet of the proposed limits of disturbance;
 - 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; and
 - v. The proposed dock, pier, piling and bulkhead; and
2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)15, including supplemental documents in the form of maps, surveys, etc.;

(r) A person applying for a General Permit pursuant to N.J.A.C. 7:7-7.2(a)16 for maintenance dredging of no greater than 100 cubic yards in a man-made lagoon shall also submit:

1. Three copies of a site plan 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 dredge material disposal site;
- vi. Method of dredging; and
- vii. The method of stabilization of dredging material;

2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)16, including supplemental documents in the form of maps, surveys, etc.

(s) Within 20 working days of receipt of the application, the Department shall take one of the following actions:

1. Declare the application complete for final review effective the date of receipt by the Department;
2. Assign an agency project number and accept the application, but request in writing that the applicant submit additional information within a specific period of time to assist in the Department's review.

i. Notwithstanding any other provision of these rules, no application shall be declared complete for final review unless and until the applicant has possession of all tidelands conveyances required for the riparian land. The Department may in its discretion issue a permit decision prior to receipt of the conveyance, provided that a complete application for the conveyance has been received by the DEP, Bureau of Tidelands Management; or

3. Return the application, explaining why it is unacceptable for filing, and return the filing fee upon notification that the applicant does not intend to reapply.

(t) Within 15 days of the receipt of any additional information submitted pursuant to (s)2 above, the Department shall issue notification to the applicant regarding whether the amended application is considered complete.

1. Such notification shall either:

- i. Specify which deficiencies still remain; or
- ii. Declare the application complete for final review effective the date of receipt of the additional information.

2. Copies of information submitted in response to deficiency letters shall be submitted to the municipal clerk and at the discretion of the Department, be distributed by the applicant to the same persons to whom copies of the initial application were distributed.

(u) The Department shall make a decision within 90 days of the application being declared complete for review.

(v) If an application is not complete for final review within 90 days of a request for additional information, the Department may, 30 days after providing written notice by certified mail to the applicant, cancel and return the application, unless the applicant can demonstrate good cause for the delay in completing the application. In such cases, a 90 day extension in which to submit the information will be granted.

1. All fees submitted with an application that is cancelled shall be non-refundable but will be applied toward re-submission of the application provided that such re-submission is within one year of the date of cancellation.

2. A re-submission of a previously cancelled application more than one year after the date of cancellation shall be accompanied by the appropriate fee pursuant to N.J.A.C. 7:1C-1.5.

3. A re-submission of an application shall be required to meet the application requirements specified at N.J.A.C. 7:7-4.2.

(w) If the Department fails to render a decision on the General Permit within 90 days of the date it was declared complete for review, the application shall be deemed to have been approved, subject to the standard conditions set forth in N.J.A.C. 7:7-1.5, with the exception of any application for a permit where the applicant has not received all required riparian conveyances setting forth the person's right to use or occupy the riparian land.

(x) An application for a General Permit authorization will also be reviewed following the procedures set forth at N.J.A.C. 7:7-4.8 through 4.11.

Amended by R.1995 d.550, effective October 16, 1995.
See: 27 N.J.R. 1005(a), 27 N.J.R. 3976(a).

Law Review and Journal Commentaries

Implications of the New CAFRA Legislation. Michael J. Gross, Jeffrey S. Beenstock, 168 N.J.Law. 13 (Mag.) (April 1995).

7:7-7.4 Permits-By-Rule

(a) This section details the activities authorized by a Permit-By-Rule.

1. Single Family Home or Duplex Expansion: The expansion of a legally constructed, habitable single family or duplex dwelling on the non-waterward sides of the dwelling, provided that the expansion does not exceed a cumulative surface area of 400 square feet on the property over time, and provided that such expansion is not proposed on a beach, dune, or wetland. For example, a 200 square foot expansion of a single family or duplex dwelling could be authorized under this permit-by-rule and an additional 200 square foot expansion could later be authorized under this permit-by-rule, since the cumulative footprint of development for both expansions would not exceed 400 square feet on the property. However, a property on which a 300 square foot expansion was already constructed pursuant to a permit-by-rule would not be eligible for another permit-by-rule subsequently for an additional 200 square foot expansion since the cumulative total footprint of development for both expansions would exceed 400 square feet.

2. (Reserved)

3. The expansion or construction of a single family home or duplex (including, but not limited to, all accessory structures including garages, sheds, pools and driveways, but excluding shore protection structures) on a bulkheaded lagoon lot, provided that the proposed project complies with all of the following:

i. The site is located on a man-made lagoon lot, with an existing bulkhead along the entire waterfront portion of the site;

ii. All waterfront portions of the site are protected by a currently serviceable bulkhead;

iii. There are no wetlands on site upland of the bulkhead;

iv. The construction or expansion is not part of a larger development owned, controlled or being conducted by the property owner;

v. The proposed development and all other proposed permanent structures (excluding decks) are set back a minimum of 15 feet from the waterward face of the bulkhead. If there is no alternative to locating the proposed development at least 15 feet landward of the bulkhead, the Department shall reduce the required set back if an engineering certification is provided demonstrating that, after the proposed development has been constructed, the shore protection structure can be replaced within 18 inches of the existing bulkhead and a deed restriction is recorded for the property which states that any reconstruction of a bulkhead shall be within 18 inches of the existing bulkhead;

vi. A silt fence is erected upland of the bulkhead with a 10 foot landward return on each end prior to construction. This fence shall be maintained and remain in place until all construction and landscaping activities are completed;

vii. If the project includes the construction of a driveway, any newly constructed portion of the driveway shall be covered with a permeable material or is pitched to drain all runoff onto permeable areas of the site;

viii. The lowest habitable floor (including the basement) of the proposed dwelling or expansion is at or above the base flood elevation for the site as established by the Federal Emergency Management Agency and designated on the Flood Insurance Rate Map;

ix. If the proposed development is a sewage generating development, it shall be serviced by an existing municipal sewer system; and

x. If the development involves the construction of a new single family or duplex dwelling, the use of plastic under landscaped or gravel areas is prohibited. All sub-gravel liners must be made of filter cloth or other permeable material.