

no fee for this reissuance. The reissued verification shall reflect any alterations to the flood hazard area design flood elevation, flood hazard area limit and/or floodway limit that will result from the regulated activities authorized under the individual permit or general permit authorization. All pre-construction and post-construction elevations and limits shall be demarcated on drawings approved under the verification.

(g) Within 90 calendar days after the Department issues a verification on a privately owned lot, or on a publicly owned lot other than a right-of-way, the applicant shall submit the following information to the clerk of each county in which the site is located, and shall send proof to the Department that this information is recorded on the deed of each lot referenced in the verification. Failure to have this information recorded in the deed of each lot and/or to submit proof of recording to the Department constitutes a violation of this chapter and may result in suspension or termination of the verification and/or subject the applicant to enforcement action pursuant to N.J.A.C. 7:13-19:

1. The Department file number for the verification;
2. The approval and expiration dates of the verification;
3. A metes and bounds description of any flood hazard area limit and/or floodway limit approved under the verification;
4. The flood hazard area design flood elevation, or range of elevations if variable, approved under the verification; and
5. The following statement: "The State of New Jersey has determined that all or a portion of this lot lies in a flood hazard area. Certain activities in flood hazard areas are regulated by the New Jersey Department of Environmental Protection and some activities may be prohibited on this site or may first require a permit. Contact the Division of Land Use Regulation at (609) 292-0060 for more information prior to any construction onsite."

SUBCHAPTER 7. PERMITS-BY-RULE

7:13-7.1 General provisions for permits-by-rule

(a) This subchapter establishes permits-by-rule for certain regulated activities. Each permit-by-rule specifically describes the regulated activity authorized, including the size and type of regulated activity and in some cases where in the flood hazard area and riparian zone the regulated activity may be conducted. The Department may, by rulemaking in accordance with the Administrative Procedure Act, rescind or modify an existing permit-by-rule, or establish new ones. The flood hazard area permits-by-rule are set forth at N.J.A.C. 7:13-7.2, and are summarized, for informational purposes only, in Table A below.

(b) The following requirements apply to every permit-by-rule at N.J.A.C. 7:13-7.2:

1. Each limit or condition of a particular permit-by-rule shall be satisfied without requiring a review of detailed engineering calculations; and
2. All structures shall be suitably anchored.

(c) A regulated activity that meets the requirements of a permit-by-rule may be conducted without prior Department approval. However, if it is unclear whether a particular activity meets a permit-by-rule, the Department encourages applicants to obtain an applicability determination under N.J.A.C. 7:13-5.1 prior to commencing work, since unauthorized regulated activities may result in enforcement action pursuant to N.J.A.C. 7:13-19. Furthermore, a person may wish to obtain an applicability determination in order to demonstrate to a local government that a proposed activity meets a permit-by-rule.

(d) A person intending to undertake a regulated activity under any of the eight permits-by-rule at N.J.A.C. 7:13-7.2(a) shall, at least 14 days prior to initiating the activity, provide written notification to the Department (via letter, electronic mail, fax or in person) as follows:

1. The notification shall include:
 - i. The property owner's name and contact information;
 - ii. The contractor's name (if applicable) and contact information;
 - iii. The street address and lot, block, municipality and county for the site at which the regulated activity will be conducted;
 - iv. Which permit-by-rule applies to the activity;
 - v. The proposed start and end date for the activity; and
 - vi. A brief description of the activity.

2. The notification shall be submitted to:

Attn: Permit-By-Rule Notification
 New Jersey Department of Environmental
 Protection
 Bureau of Coastal and Land Use Compliance and
 Enforcement
 P.O. Box 422
 401 East State Street
 Trenton, New Jersey 08625-0422
 Fax: (609) 633-6798
 Electronic mail: floodhazard-pbrnotice@dep.state.nj.us
 Website: <http://nj.gov/dep/enforcement/lu.html>

(e) Prior to undertaking a regulated activity that fails to comply with any limit, condition or requirement of a permit-

by-rule in this subchapter, the applicant must first obtain a general permit authorization (pursuant to N.J.A.C. 7:13-8), an individual permit (pursuant to N.J.A.C. 7:13-9, 10 and 11), an emergency permit (pursuant to N.J.A.C. 7:13-12) or a CAFRA or waterfront development permit (pursuant to N.J.A.C. 7:7 and 7:7E) for the regulated activity. Furthermore, a person may undertake a regulated activity under a permit-by-rule only up to any given limit specified by the permit-by-rule. For example, the placement of no more than five cubic yards of fill under the permit-by-rule at N.J.A.C. 7:13-7.2(b)3 means either the one-time placement of five cubic yards of fill or multiple placements of fill over time that

cumulatively do not exceed five cubic yards. A person may also concurrently undertake activities under two or more permits-by-rule provided all activities meet the requirements of this subchapter. For example, a person could elevate a building under the permit-by-rule at N.J.A.C. 7:13-7.2(a)3, construct an addition to the building under the permit-by-rule at N.J.A.C. 7:13-7.2(a)4, and build a fence around the building under the permit-by-rule at N.J.A.C. 7:13-7.2(b)5, without requiring another approval under this chapter, provided each activity meets the descriptions of each applicable permit-by-rule.

Table A

SUMMARY OF PERMITS-BY-RULE

This Table is for informational purposes only. See N.J.A.C. 7:13-7.2(a) through (f) for specific applicable limits and requirements for each permit-by-rule

(a) Activities that require 14-day prior notice to the Department

1. Reconstructing a lawfully existing structure outside a floodway
2. Constructing in a disturbed riparian zone or at or below grade in a flood hazard area
3. Elevating a building above the flood hazard area design flood elevation
4. Constructing an addition to a building of no more than 300 square feet outside a floodway
5. Removing a major obstruction from a regulated water with machinery
6. Constructing a boat launching ramp of no more than 1,000 square feet
7. Constructing an aquatic habitat enhancement device
8. Constructing a USGS-approved flow gauge or weir

(b) General construction and maintenance activities

1. Conducting normal property maintenance in a riparian zone
2. Removing a lawfully existing structure outside a floodway
3. Placing no more than five cubic yards of fill material outside a floodway
4. Repairing a lawfully existing structure
5. Constructing a fence
6. Construction in a tidal flood fringe that does not need a coastal permit
7. Constructing an addition above a building outside a floodway
8. Constructing a non-habitable building of no more than 150 square feet outside a floodway
9. Constructing an open structure with a roof outside a floodway (for example, car port, patio, pole barn)
10. Constructing an aboveground recreational structure (for example, bleacher, picnic table, backstop)
11. Constructing an aboveground swimming pool outside a floodway
12. Constructing an in-ground swimming pool
13. Constructing an open deck attached to a building
14. Constructing an open dock of no more than 1,000 square feet on an impounded water
15. Placing an aboveground fuel tank of no more than 2,000 gallons outside a floodway
16. Placing an underground fuel tank
17. Filling an abandoned raceway
18. Maintaining a manmade canal that passes through a regulated area

(c) Activities associated with utilities

1. Placing a utility pole
2. Placing an open-frame utility tower outside a floodway
3. Jacking an underground utility line beneath a water
4. Placing an underground utility line beneath existing pavement
5. Attaching a utility line to the downstream face of a roadway that crosses a water
6. Placing an underground utility line in a flood hazard area outside a riparian zone

(d) Activities associated with roadways and parking areas

1. Repaving a roadway or parking area outside a floodway
2. Placing an open guardrail along a public roadway

3. Removing sediment by hand adjacent to a bridge, culvert or outfall along a public roadway
4. Reconstructing a bridge superstructure above a flood hazard area
- (e) Activities associated with the storage of unsecured material
 1. Temporary storage of construction material outside a floodway
 2. Incidental storage of material associated with a residence
 3. Incidental storage of material associated with a non-residence
 4. Operating an existing business that stores and distributes material
 5. Operating an existing hazardous waste facility
 6. Operating an existing solid waste facility
- (f) Agricultural activities
 1. Continuing ongoing agricultural activities that result in no fill
 2. Commencing new agricultural activities that result in no fill
 3. Undertaking soil conservation practices outside a floodway
 4. Constructing an agricultural building of no more than 1,000 square feet outside a floodway

Public Notice.

See: 41 N.J.R. 2728(a), 3851(a), 4127(b).

7:13-7.2 Permits-by-rule

(a) The permits-by-rule at (a)1 through 8 below apply to the specified construction and maintenance activities listed therein. Pursuant to N.J.A.C. 7:13-7.1(d), prior written notice to the Department is required for each of these permits-by-rule.

1. The reconstruction of a lawfully existing structure outside a floodway, provided:

- i. The structure is not a habitable building;
- ii. The structure is not a retaining wall that extends four feet or more above the ground;
- iii. The reconstructed structure lies within the footprint of the existing structure and is not enlarged;
- iv. The reconstruction is not a major development, as defined at N.J.A.C. 7:8-1.2, and is, therefore, not subject to the requirements of the Stormwater Management rules at N.J.A.C. 7:8;
- v. No vegetation is cleared, cut or removed in a riparian zone, except for vegetation within 20 feet of the structure if such disturbance is necessary to facilitate its reconstruction; and
- vi. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;

2. Any construction activity, provided:

- i. If the activity is located in a flood hazard area, all construction is situated at or below grade and the existing ground elevation is not raised (such as for the construction of a bicycle path, driveway, fishing or hunting area, garden, lawn, nature preserve, outdoor recreation area, park, parking area, picnic ground, playground, playing field, roadway, sidewalk or trail);

ii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;

iii. The construction activity is not a major development, as defined at N.J.A.C. 7:8-1.2, and is therefore not subject to the requirements of the Stormwater Management rules at N.J.A.C. 7:8;

iv. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and

v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;

3. The elevation of a lawfully existing building outside a floodway, in order to reduce flood damage potential, provided:

- i. The building to be elevated is not relocated;
- ii. The lowest finished floor of the building is raised to at least one foot above the flood hazard area design flood elevation;
- iii. The area below the lowest finished floor of the building is not used for habitation and remains open to floodwaters, in accordance with N.J.A.C. 7:13-11.5(l);
- iv. No vegetation is cleared, cut or removed in a riparian zone, except for vegetation within 20 feet of the building if such disturbance is necessary to facilitate its elevation; and
- v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;

4. The construction of an addition that is connected to a lawfully existing building outside a floodway, provided:

- i. The addition has a footprint of no more than 300 square feet;
 - ii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - iii. No part of the addition extends into a floodway;
 - iv. No vegetation is cleared, cut or removed in a riparian zone, except for vegetation within 20 feet of the addition if such disturbance is necessary to facilitate its construction; and
 - v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
5. The use of machinery to remove a major obstruction from a regulated water that cannot be removed by hand, such as a fallen tree, abandoned vehicle, furniture and other large debris, provided:
- i. No trees are disturbed in the riparian zone to provide access to the channel and/or obstruction;
 - ii. The machinery is situated outside the regulated water where possible;
 - iii. The timing restrictions set forth at N.J.A.C. 7:13-10.5(d) are observed; and
 - iv. No fill material or accumulated sediment is removed from the regulated water;
6. The construction of a boat launching ramp, provided:
- i. The ramp has a footprint of no more than 2,000 square feet;
 - ii. The ramp is constructed at or below grade;
 - iii. The timing restrictions set forth at N.J.A.C. 7:13-10.5(d) are observed;
 - iv. No more than 2,000 square feet of vegetation, including permanent and temporary disturbance, is cleared, cut or removed in a riparian zone; and
 - v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
7. The construction of an aquatic habitat enhancement device provided:
- i. The device is approved by the Department's Division of Fish and Wildlife, Bureau of Freshwater Fisheries;
 - ii. The device will not cause erosion in the regulated water;
 - iii. The device will not cause any rise in the flood hazard area design flood elevation outside the regulated water;
- iv. The device will not cause any existing building to be subject to increased flooding during any flood event up to and including the flood hazard area design flood;
 - v. The timing restrictions set forth at N.J.A.C. 7:13-10.5(d) are observed;
 - vi. No more than 2,000 square feet of vegetation, including permanent and temporary disturbance, is cleared, cut or removed in a riparian zone; and
 - vii. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
8. The construction of a gauge, weir or other device to measure the depth, velocity and/or rate of flow in a regulated water provided:
- i. The device is approved by the United States Geological Survey;
 - ii. The device will not cause erosion in the regulated water;
 - iii. The device will not cause any rise in the flood hazard area design flood elevation outside the regulated water;
 - iv. The device will not cause any existing building to be subject to increased flooding during any flood event up to and including the flood hazard area design flood;
 - v. The timing restrictions set forth at N.J.A.C. 7:13-10.5(d) are observed;
 - vi. No more than 2,000 square feet of vegetation, including permanent and temporary disturbance, is cleared, cut or removed in a riparian zone; and
 - vii. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity.
- (b) The permits-by-rule at (b)1 through 18 below apply to the specified construction and maintenance activities listed therein.
1. The disturbance of vegetation in a riparian zone for normal property maintenance.
 - i. Normal property maintenance means an activity necessary to maintain a lawfully existing structure, lawn and/or garden and includes:
 - (1) Pruning;
 - (2) Selective tree cutting;
 - (3) Planting indigenous, non-invasive vegetation;

- (4) Maintaining a field, lawn, park and/or easement that was lawfully established prior to October 2, 2006 and that has been maintained (such as through periodic mowing) since that date;
- (5) The removal of trash, debris and dead vegetation by hand; and
- (6) Maintaining a garden that was lawfully established prior to October 2, 2006.
- ii. Normal property maintenance does not include any activity that would result in any clearing, cutting or removal of vegetation not described in (b)1i above, such as:
- (1) Mowing an area that was not lawfully mowed prior to October 2, 2006 or which was lawfully mowed prior to this date but has since been allowed to revert to its natural vegetative state;
 - (2) Removing vegetation to create a new lawn, garden, field or park;
 - (3) Burning vegetation;
 - (4) Applying herbicide;
 - (5) Grading and other changes in topography; and
 - (6) Constructing structures, or placing fill or impervious surfaces;
2. The removal of any lawfully existing structure outside a floodway, provided:
- i. The structure is disposed of outside of any regulated area and in accordance with all applicable Federal, State and local laws;
 - ii. All disturbed regulated areas are properly stabilized;
 - iii. No vegetation is cleared, cut or removed in a riparian zone, except for vegetation within 20 feet of the structure if such disturbance is necessary to facilitate its removal; and
 - iv. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity, except where the removed material is to be replaced by new fill or a structure. (Note that any replacement fill or structure is subject to the requirements of this chapter and may require a permit.);
3. The placement of no more than five cubic yards of fill outside a floodway, provided:
- i. No fill is placed within 25 feet of any top of bank or edge of water;
 - ii. The fill is not a structure. For example, five cubic yards of stone, topsoil, wood chips or other landscaping material can be placed under this permit-by-rule but the construction of a building that displaces five cubic yards of flood storage volume cannot;
 - iii. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and
 - iv. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
4. The repair of a lawfully existing structure, provided:
- i. The timing restrictions set forth at N.J.A.C. 7:13-10.5(d) are observed if the structure is located in a regulated water;
 - ii. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and
 - iii. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
5. The construction of a fence, provided:
- i. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - ii. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated);
 - iii. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity; and
 - iv. One of the following conditions is satisfied:
 - (1) The fence is located outside a floodway; or
 - (2) The fence is located in a floodway and has sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as a barbed-wire, split-rail or strand fence. A fence with little or no open area, such as a chain link, lattice or picket fence, does not meet this requirement;
6. Any construction activity in a tidal flood hazard area that is not regulated under N.J.A.C. 7:7 and 7:7E, provided:
- i. The existing ground elevation is not raised in any floodway;

- ii. No aboveground structure is placed in a floodway;
 - iii. No habitable building is constructed;
 - iv. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - v. The construction activity is not a major development, as defined at N.J.A.C. 7:8-1.2, and is therefore not subject to the requirements of the Stormwater Management rules at N.J.A.C. 7:8;
 - vi. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and
 - vii. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
7. The construction of an addition above a lawfully existing building outside a floodway, provided:
- i. The addition is completely supported by the existing building;
 - ii. The lowest finished floor of the addition is constructed at least one foot above the flood hazard area design flood elevation;
 - iii. No part of the addition extends into a floodway;
 - iv. No vegetation is cleared, cut or removed in a riparian zone, except for vegetation within 20 feet of the building if such disturbance is necessary to facilitate the construction of the addition; and
 - v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
8. The construction of a non-habitable building outside a floodway, such as a shed, animal shelter or storage area, provided:
- i. The building has a footprint of no more than 150 square feet;
 - ii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - iii. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and

- iv. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
9. The construction of an open structure with a roof outside a floodway, such as a car port, covered patio or pole barn, provided:
- i. The structure is not enclosed with walls on any side below the flood hazard area design flood elevation;
 - ii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - iii. The roof is supported solely by poles or is cantilevered from an adjoining structure;
 - iv. No fill is placed in the flood hazard area except for any poles necessary to support the roof;
 - v. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and
 - vi. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
10. The construction of an aboveground recreational structure (such as a backstop, bleacher, picnic table or playground equipment), provided:
- i. The structure is not a building;
 - ii. No obstruction to flow is placed in a floodway;
 - iii. The existing ground elevation is not raised;
 - iv. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - v. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and
 - vi. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
11. The construction of an aboveground swimming pool outside a floodway associated with residential use, provided:
- i. The swimming pool does not displace more than 100 cubic yards of flood storage volume (see N.J.A.C. 7:13-10.4);

- ii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - iii. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and
 - iv. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
12. The construction of an in-ground swimming pool associated with residential use, provided:
- i. The pool lies completely at or below existing grade;
 - ii. If the pool is located in a floodway, and the construction of a safety fence around the pool is required by local ordinances, the size and height of the fence is minimized and the fence is as open as possible to allow the passage of floodwaters;
 - iii. Any material excavated to construct the pool is removed from the flood hazard area;
 - iv. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - v. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and
 - vi. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
13. The construction of a deck that is connected to a lawfully existing building, provided:
- i. The deck is not enclosed with walls either above or below its floor, except for protective or decorative fencing, banisters or latticework that allow floodwaters to pass freely;
 - ii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - iii. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and
 - iv. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
14. The construction of a dock along an impounded water, such as a lake, pond or reservoir, provided:
- i. The dock is built on pilings and remains open underneath to allow floodwaters to pass freely;
 - ii. The dock covers no more than 1,000 square feet including all decking and pilings;
 - iii. The impounded water has a surface area of one acre or more;
 - iv. The dock does not extend more than 20 percent across the width of the impounded water;
 - v. No more than 1,000 square feet of vegetation, including permanent and temporary disturbance, is cleared, cut or removed in a riparian zone; and
 - vi. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
15. The construction of an aboveground fuel tank of no more than 2,000 gallons outside a floodway, within or adjacent to the building it serves, provided:
- i. The tank is designed to remain watertight during a flood;
 - ii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - iii. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and
 - iv. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;
16. The construction of an underground fuel tank within or adjacent to the building it serves, provided:
- i. The tank is designed to remain watertight during a flood;
 - ii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;
 - iii. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as

a lawn or garden or an abandoned parking area that has partially revegetated); and

iv. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;

17. The filling of an abandoned raceway adjacent to a regulated water, provided:

i. The raceway is a manmade conveyance structure that was created to divert water from a channel for the purpose of providing hydrology or hydraulic power before returning the water to the channel;

ii. The raceway is currently blocked at one or both ends so that water from the channel is not able to flow through the raceway under normal flow conditions;

iii. The raceway does not supply hydrology to an otherwise isolated freshwater wetlands complex;

iv. The raceway is filled up to, but not above, the surrounding topography and the entire disturbed area is properly graded so as not to interfere with overland drainage; and

v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity; and

18. The repair, maintenance or dredging of the channel and/or embankments of a manmade canal, which passes through a regulated area, provided:

i. A public entity having jurisdiction over the canal determines that the proposed regulated activity is necessary for the proper operation of the canal;

ii. No fill or dredged spoils are placed in the flood hazard area;

iii. No trees are cleared, cut or removed in a riparian zone; and

iv. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity.

(c) The permits-by-rule at (c)1 through 6 below apply to the specified activities associated with utility lines listed therein.

1. The placement of one or more utility poles (which are not open-frame towers as described in (c)2 below) for utility lines, provided:

i. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;

ii. All wires or cables connected to the utility poles are situated at least one foot above the flood hazard area design flood elevation;

iii. No trees are cleared, cut or removed in a riparian zone; and

iv. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;

2. The placement of one or more open-frame towers outside a floodway to support a utility line, provided:

i. Each tower's footing is constructed at or below grade;

ii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;

iii. All wires or cables connected to the towers are situated at least one foot above the flood hazard area design flood elevation;

iv. No trees are cleared, cut or removed in a riparian zone; and

v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;

3. The placement of an underground utility line beneath a regulated water through directional drilling or "jacking," provided:

i. The regulated water is not disturbed in any way;

ii. No trees are cleared, cut or removed in a riparian zone;

iii. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity;

iv. All disturbed areas in the flood hazard area are restored to their original topography upon completion of the regulated activity;

v. If the line is jacked or drilled beneath a bridge or culvert, all work is accomplished without displacing or damaging the bridge or culvert;

vi. If the line is jacked or drilled beneath an open channel, the top of the line is placed at least four feet below the channel invert and remains nominally horizontal at this depth at least 10 feet beyond the top of each bank;

vii. The line is sealed to ensure that there will be no leakage or discharge in a regulated area;

(3) The hazardous substances are stored in accordance with all Federal, State and local laws;

ii. The unsecured material is of an amount and nature typical for the subject business or non-residential facility. For example, this permit-by-rule does not authorize the storage of construction debris, roll-off containers, an inordinate number of vehicles or machinery or large piles of refuse;

iii. No unsecured material is located within a floodway unless the material was lawfully situated there prior to October 2, 2006;

iv. No unsecured material is located within 25 feet of any top of bank or edge of water unless the material was lawfully situated there prior to October 2, 2006; and

v. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated);

4. The storage in a regulated area of unsecured material that is necessary for the operation of a lawfully existing business or other non-residential facility, the primary function of which is to store and distribute material (such as a gravel pit, junk yard, landscaping business, lumber yard or vehicle dealership, rental facility or impoundment area), provided:

i. No hazardous substances are stored unless;

(1) The storage of hazardous substances is essential to the operation of the business or facility;

(2) The hazardous substances are isolated from potential contact with floodwaters; and

(3) The hazardous substances are stored in accordance with all Federal, State and local laws;

ii. The business or facility was established prior to October 2, 2006;

iii. The business or facility has been in continuous operation since October 2, 2006; and

iv. The size of the business or facility and the peak volume of material stored in the flood hazard area have not increased since October 2, 2006. Any increase in size or peak volume requires that an individual permit be obtained pursuant to N.J.A.C. 7:13-11.16;

5. The placement, storage or processing of hazardous waste at a lawfully existing hazardous waste facility located in a regulated area, provided:

i. The facility was established prior to October 2, 2006;

ii. The facility has been in continuous operation since October 2, 2006;

iii. The facility is operating in compliance with all Federal, State and local requirements; and

iv. The size of the facility and the peak volume of hazardous waste in the flood hazard area have not increased since October 2, 2006. Any increase in size or peak volume requires that an individual permit be obtained pursuant to N.J.A.C. 7:13-11.17; and

6. The placement, storage or processing of solid waste at a lawfully existing solid waste facility (such as a composting facility, landfill or recycling center), located in a regulated area, provided:

i. The facility was established prior to October 2, 2006;

ii. The facility has been in continuous operation since October 2, 2006;

iii. The facility is operating in compliance with all Federal, State and local requirements; and

iv. The size of the facility and the peak volume of solid waste in the flood hazard area have not increased since October 2, 2006. Any increase in size or peak volume requires an individual permit pursuant to N.J.A.C. 7:13-11.18.

(f) The permits-by-rule at (f)1 through 4 below apply to the specified agricultural activities listed therein.

1. The continuation of lawfully existing agricultural activities (such as grazing, harvesting, horticulture, irrigation, planting, tilling, viticulture and watering, as well as forestry under an approved forestry management plan that does not allow clear cutting), provided:

i. The activities are undertaken on land that has been actively farmed since October 2, 2006; and

ii. The activities do not result in the displacement of flood storage volume or the construction of an above-ground structure;

2. The commencement of new agricultural activities (such as grazing, harvesting, horticulture, irrigation, planting, tilling, viticulture and watering, as well as forestry under an approved forestry management plan that does not allow clear cutting) on land that is not actively farmed provided:

i. The activities do not result in the displacement of flood storage volume or the construction of an above-ground structure; and

ii. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated);

3. The continuation or commencement of soil conservation practices outside a floodway, such as terracing, subsurface tile drainage or construction of a diversion, a grassed swale or an excavated pond, provided:

i. The activities are undertaken on land that has been actively farmed since October 2, 2006;

ii. The activities are approved in writing by the local Soil Conservation District or the USDA Natural Resource Conservation Service, as appropriate;

iii. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;

iv. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and

v. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity; and

4. The construction of a building with no foundation outside a floodway, provided:

i. The building is located on land that has been actively farmed since October 2, 2006;

ii. The building has a footprint of no more than 1,000 square feet;

iii. The building is designed for agricultural use. Examples of such buildings include a plastic covered

greenhouse, a roadside farm stand and a tool shed placed on an existing farm field;

iv. No disturbance related to the regulated activity is located within 25 feet of any top of bank or edge of water;

v. No vegetation is cleared, cut or removed in a riparian zone, except where previous development or disturbance has occurred (such as an area maintained as a lawn or garden or an abandoned parking area that has partially revegetated); and

vi. All vegetated areas temporarily disturbed within the riparian zone are replanted with indigenous, non-invasive species upon completion of the regulated activity.

SUBCHAPTER 8. GENERAL PERMITS

7:13-8.1 Standards applicable to all general permits

(a) This subchapter establishes general permits for certain regulated activities. Each general permit describes the regulated activity authorized, including the size and type of regulated activity and in some cases where in the flood hazard area or riparian zone the regulated activity may be conducted. The Department may, by rulemaking in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., rescind or modify an existing general permit or establish new ones. The flood hazard general permits established in this subchapter are set forth as follows:

Table B

SUMMARY OF GENERAL PERMITS

This Table is for informational purposes only. See N.J.A.C. 7:13-8.3 through 8.12 for specific applicable limits and requirements for each general permit

<u>Permit</u>	<u>Description</u>	<u>Citation</u> <u>(N.J.A.C. 7:13-)</u>
1	Channel cleaning by a public entity under the Stream Cleaning Act	8.3
2A	Agricultural: Soil erosion control, bank stabilization or bank restoration	8.4(c)1
2B	Agricultural: Channel cleaning	8.4(c)2
2C	Agricultural: Constructing a roadway across a water	8.4(c)3
2D	Agricultural: Filling a manmade water for freshwater wetlands restoration	8.4(c)4
2E	Agricultural: Creating a ford across a water to manage livestock	8.4(c)5
2F	Agricultural: Constructing a fence across or along a water to manage livestock	8.4(c)6
2G	Agricultural: Constructing a pump or water intake along a water for livestock	8.4(c)7
3	Bridge or culvert scour protection by a public entity	8.5
4	Stormwater maintenance by a public entity	8.6
5	Relocating a building to reduce flood damage	8.7
6	Reconstructing a damaged or destroyed residence	8.8
7	Residential construction in a tidal flood hazard area	8.9
8	Utility line across or along a water draining less than 50 acres	8.10
9	Roadway or footbridge across a water draining less than 50 acres	8.11
10	Stormwater outfall along a water draining less than 50 acres	8.12