

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

## SUBCHAPTER 7. GENERAL PERMITS AND PERMITS-BY-RULE

### 7:7-7.1 General standards for issuing coastal general permits and permits-by-rule

(a) This section contains the procedures and substantive standards governing the issuance of new coastal general permits in accordance with CAFRA, N.J.S.A. 13:19-1, the Waterfront Development Law, N.J.S.A. 12:5-1 et seq., and the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq., and contains the procedures and substantive standards for the issuance of permits-by-rule. N.J.A.C. 7:7-7.2 and 7.3 contain the procedures and substantive standards for authorizing various developments under the issued coastal general permits. N.J.A.C. 7:7-7.4 describes the activities authorized by permit-by-rule.

(b) Before reissuing a coastal general permit or permit-by-rule, or adopting a new coastal general permit or permit-by-rule, the Department will propose a draft coastal general permit or permit-by-rule for public comment in the form of a rule proposal pursuant to the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(c) The Department may issue a coastal general permit or permit-by-rule only if all of the following conditions are met:

1. The Department determines that the regulated development will cause only minimal adverse environmental impacts when performed separately, will have only minimal cumulative adverse impacts on the environment, and is in keeping with the legislative intent to protect and preserve the coastal area from inappropriate development;

2. The Department determines that the development will be in conformance with the purposes of applicable statutes; and

3. The Department has provided public notice and an opportunity for a public hearing with respect to the proposed coastal general permit or permit-by-rule. After a coastal general permit has been issued by the Department, the Department will not hold hearings on individual applications for a coastal general permit.

(d) Each coastal general permit or permit-by-rule shall contain a specific description of the type(s) of development which are authorized, including limitations for any single operation, to ensure that the requirements of (a), (b) and (c) above are satisfied. At a minimum, these limitations shall include:

1. The size and type of the development that may be undertaken; and

2. A precise description of the geographic area to which the coastal general permit or permit-by-rule applies.

(e) The Department will include in each coastal general permit or permit-by-rule issued pursuant to this subchapter appropriate conditions applicable to particular types of sites or development which must be met in order for a proposed development or activity to qualify for authorization under the coastal general permit or permit-by-rule.

1. The Department may add special conditions which must be met in order for a specific proposed development to qualify for a coastal general permit.

(f) The Department may, by proposing and adopting regulations, rescind a category of coastal general permit or permit-by-rule, and thereafter require individual permits for development previously covered by the coastal general permit or permit-by-rule, if it finds that the coastal general permit or permit-by-rule no longer meets the purposes of applicable statutes and of this chapter.

(g) The Department shall review each coastal general permit and permit-by-rule a minimum of once every five years in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. This review shall include public notice and an opportunity for public hearing. Upon completion of this review, the Department shall either modify, reissue or revoke each coastal general permit and permit-by-rule previously adopted.

(h) If a coastal general permit or permit-by-rule is not modified or reissued within five years of initial adoption by publication in the New Jersey Register, it shall automatically expire.

(i) N.J.A.C. 7:7-7.2 sets forth the procedure for obtaining an authorization under a permit-by-rule and the substantive standards for the various permits-by-rule. N.J.A.C. 7:7-7.3 sets forth the procedure for obtaining an authorization under a coastal general permit, and N.J.A.C. 7:7-7.5 through 7.25 set forth the substantive standards for the various coastal general permits.

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.

### 7:7-7.2 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 home or duplex on the non-waterward sides of the single

family home or duplex, provided that the expansion does not exceed a cumulative surface area of 400 square feet on the property constructed after July 19, 1994, 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 home or duplex 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 the 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 development (including expansion or reconstruction and expansion) of a 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 development are located on a bulkheaded lagoon lot and, provided that the proposed single family home or duplex and/or accessory structures comply with all of the following:

i. Development under this permit-by-rule 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;

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

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

iv. There are no wetlands on the site landward of the bulkhead;

v. The proposed single family home or duplex and accessory 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 single family home or duplex and accessory structures at least 15 feet landward of the bulkhead, the set back shall be reduced 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 conservation 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 landward 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 development includes the construction of a driveway, any newly constructed portion of the driveway shall be covered with a permeable material or else be pitched to drain all runoff onto permeable areas of the site;

viii. The development shall comply with the elevation and flood proofing requirements of the National Flood Insurance Program regulations at 44 CFR Chapter 1;

ix. The single family home or duplex shall be serviced by an existing municipal sewer system; and

x. All sub-gravel liners must be made of filter cloth or other permeable material.

4. Placement of public safety or beach/dune ordinance signs on beaches and dunes provided no footings are required, and placement of signs at public parks.

5. The construction of nonresidential docks, piers and boat ramps located landward of the mean high water line, provided that the construction waterward of the mean high water line has received a Waterfront Development permit. The width of the structure landward of the mean high water line shall not exceed the width of the structure waterward of the mean high water line. The width of the structure over wetlands shall not exceed six feet and the height shall be a minimum of four feet over the wetlands. This permitbyrule also includes the construction of non-residential decks provided they are not located on a beach, dune or wetland, provided the construction does not require clearing of forest vegetation and provided the size does not exceed a footprint area of 400 square feet. The Waterfront Development permit may include additional conditions (including but not limited to public access to the waterfront) on the upland construction to insure compliance with the Coastal Zone Management rules, N.J.A.C. 7:7E.

6. The construction of the portion of a recreational dock or pier landward of the mean high water line at a residential development, provided that construction waterward of the mean high water line is authorized through the issuance of a Waterfront Development permit. The width of the structure landward of the mean high water line shall not exceed the width of the structure waterward of the mean high water line. The width of the structure over wetlands shall not exceed six feet and the height shall be a minimum of four feet over the wetlands. The Waterfront Development permit may include additional conditions on the upland construction to insure compliance with the Coastal Zone Management rules (N.J.A.C. 7:7E). For example, the Waterfront Development permit may be conditioned to require the dock to cross the wetlands at the narrowest point on the property or to allow continued access along the shoreline.

7. **Voluntary Reconstruction:** The voluntary reconstruction of a non-damaged legally constructed, currently habitable residential or commercial development within the same footprint, provided that such reconstruction is in compliance with existing requirements or codes of municipal, State and Federal law and provided:

- i. The reconstruction does not result in the enlargement or relocation of the footprint of the development;
- ii. In the case of a residential development, the reconstruction does not result in an increase in the number of dwelling units;
- iii. In the case of a commercial development, the reconstruction does not result in an increase in the number of parking spaces or equivalent paved area associated with the development; and
- iv. The reconstruction does not increase the area covered by buildings and/or asphalt or concrete pavement.
- v. This permit-by-rule does not apply to repairs or maintenance of the residential or commercial development, such as replacing siding, windows or roofs.

8. The construction of a utility line, including cable (that is, electric, television, or fiber optic), telecommunication, wastewater, petroleum, natural gas, or water, attached to a bridge or culvert. This permit-by-rule applies only to that portion of the utility line that will be constructed across the tidal waterway up to the mean high water line, provided a tidelands instrument has been obtained for the utility line. The construction of the utility line shall comply with the following:

- i. No excavation, dredging or filling shall be undertaken within the water body over which the utility line crosses;
- ii. The utility line shall be firmly attached to the existing bridge or culvert structure so that no part of the utility line, its encasement, or any attachment device extends above or below the existing bridge or culvert structure;

(1) If the crossing is a bridge, the utility line, its encasement, and all attachment devices shall be located entirely above the elevation of the low chord of the superstructure and entirely below the elevation of the bridge surface;

(2) If the crossing is a culvert, the utility line, its encasement, and all attachment devices shall be located entirely above the overt elevation of the culvert and entirely below the elevation of the top of the culvert;

(3) If the utility line is a pipeline that conveys any substance other than potable water, the utility line shall be sufficiently encased within ductile iron or

concrete to protect the utility line from damage from impact with floating debris during floods; and

(4) If there is a predominant direction of flow within the water body, the utility line shall be attached to the downstream face of the bridge or culvert;

iii. The installation of the utility line shall have no adverse impacts to special areas as defined in the Coastal Zone Management rules at N.J.A.C. 7:7E-3;

iv. Construction equipment shall be operated from land, the top of the bridge or culvert, or from barges, and shall under no circumstances be allowed to enter the water body; and

v. This permit-by-rule does not relieve the permittee from the obligation of obtaining all necessary approvals from the U.S. Army Corps of Engineers.

9. Where a single family home or duplex is proposed or exists on a lot which was previously filled and is not part of a larger development, the prior filling of any lands on the lot formerly flowed by the tide shall be considered by the Department to be authorized provided the filling appears on the applicable Tidelands Map adopted by the Tidelands Resource Council (base map photography dated 1977/78). The permit-by-rule is only effective if a tidelands instrument has been obtained for all filled tidelands areas.

10. The construction of the portion of a boat ramp landward of the mean high water line at a residential development, provided that construction waterward of the mean high water line is authorized through the issuance of a Waterfront Development permit. A boat ramp located within wetlands is not authorized by this permit-by-rule. The width of the boat ramp landward of the mean high water line shall not exceed the width of the boat ramp waterward of the mean high water line. The Waterfront Development permit may include additional conditions on the upland construction to insure compliance with the Coastal Zone Management rules (N.J.A.C. 7:7E).

(b) For activities subject to (a)5, 6 and 10 above, the Department shall review the activities subject to the permit-by-rule in conjunction with the Waterfront Development permit application.

(c) Notification to the Department prior to commencement of a development which meets the conditions of (a)1, 3, 4, 7, 8 and 9 above is not required.

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).

Inserted (a)7; rewrote (b); deleted (b)1 through (b)4; rewrote (c); and deleted (c)1 and (c)2.

Recodified from N.J.A.C. 7:7-7.4 and 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. Former N.J.A.C. 7:7-7.2, General Permit authorization, repealed.  
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**

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

**7:7-7.3 Application procedure for a coastal general permit authorization**

(a) A person proposing to engage in an activity covered by a coastal general permit shall submit the following to the Department:

1. A completed LURP application form;
2. Photographs showing the specific location of the proposed development taken from a minimum of four different locations and labeled as to orientation;
3. The general site location of the development, which may be identified on a county or local road map or an insert from a U.S. Geological Survey topographic quadrangle map;
4. Verification (white certified mailing receipt or other written receipt is required) that three complete copies of the application package have been submitted to the clerk of the municipality in which the proposed development would occur, including a letter requesting that the clerk distribute one copy to the planning board and one copy to the environmental commission, or any public body with similar responsibilities. The third copy shall be maintained in the clerk's office. Applications for coastal general permits within the Pinelands Preservation Area or Protection Area must also contain verification that a complete copy of the application package has been submitted to the Pinelands Commission;
5. Verification that a certified mail notice (white receipts or green cards are acceptable) and a copy of the site plan and completed LURP application form have been forwarded to the construction code official of the municipality in which the proposed development would occur, and to the planning board and environmental commission of the county in which the proposed development would occur. Verification that notice has also been provided to all owners of real property, including easements, as shown on the tax duplicate, surrounding and sharing a property boundary at any point on the perimeter of the proposed development. Verification in the form of a list certified by the municipality of all owners of real property, including easements as shown on the tax duplicate, surrounding and sharing a property boundary at any point, except as provided at (a)5i and ii below shall also be provided. The site plan referred to in this subsection need not include a full set of plans, but must depict the proposed development in relationship to existing site conditions. This plan may be on an 8½ inch by 11 inch sheet of paper provided it generally depicts the proposed development and the general and site specific location. The public 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 authorization under a coastal 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 Department'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 439  
Trenton, New Jersey 08625-0439  
Attn: (Municipality 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. This newspaper notice shall be published as a display advertisement of at least four inches in width. Such an application shall also include verification that a certified mail notice (white mailing receipt or other written receipt is acceptable) and a copy of the site plan and completed LURP application form have been forwarded to all owners of real property, including easements, as shown on the tax duplicate within 200 feet of a proposed dune walkover structure, rather than to all owners of real property, including easements within 200 feet of the beach and dune maintenance activities. The site plan referred to in this subsection need not include a full set of plans, but must depict the proposed development in relationship to existing site conditions. This plan may be on an 8½ inch by 11 inch sheet of paper provided it generally depicts the proposed development and the general and site specific location;

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.

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; and

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

(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.

#### **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 development (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-3.27, 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 (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) The development shall comply with the elevation and flood proofing requirements of the National Flood Insurance Program regulations at 44 CFR Chapter 1.

(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.

### 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-3.27, 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) The development shall comply with the elevation and flood proofing requirements of the National Flood Insurance Program regulations at 44 CFR Chapter 1.

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

**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;

(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; and

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

(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.

#### **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 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 Projects Exposing Deposits of Acid-producing Soils (N.J.A.C. 7:13-3.7).

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).

#### 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;