

## COASTAL PERMIT PROGRAM RULES

## CHAPTER 7

## DIVISION OF COASTAL RESOURCES: COASTAL PERMIT PROGRAM RULES

## Authority

N.J.S.A. 12:5-1 et seq., 13:1D-1 et seq., 13:9A-1 et seq., 13:9B-1 et seq., and 13:19-1 et seq.

## Source and Effective Date

R.1994 d.378, effective June 24, 1994.  
See: 26 N.J.R. 918(a), 26 N.J.R. 1561(a), 26 N.J.R. 2934(a).

## Executive Order No. 66(1978) Expiration Date

Chapter 7, Division of Coastal Resources: Coastal Permit Program Rules, expires on June 24, 1999.

## Chapter Historical Note

Originally, subchapter one of this chapter contained rules on Riparian Grants and Leases, which were adopted pursuant to N.J.S.A. 12:7-1 et seq. On October 7, 1980, R.1980 d.433 repealed this text. See: 12 N.J.R. 454(b), 12 N.J.R. 643(a). On August 26, 1980 rules concerning Waterfront Development Permits were adopted pursuant to N.J.S.A. 12:5-3 and 13:10-9 and filed as R.1980 d.375. This text was codified at subchapter two and became operative on September 26, 1980. See: 12 N.J.R. 252(a), 12 N.J.R. 576(a). Subsequently, amendments to this subchapter were filed as R.1981 d.355, effective July 9, 1981. See: 13 N.J.R. 73(c), 13 N.J.R. 401(b). On May 7, 1984 subchapter two was repealed by R.1984 d.164. See: 16 N.J.R. 1073(a). The chapter was substantially amended effective May 18, 1987 as R.1987 d.217. See: 18 N.J.R. 2056(a), 19 N.J.R. 861(b).

The current Coastal Permit Program Rules are based on the CAFRA rules formerly found at N.J.A.C. 7:7D and include elements of the repealed Waterfront Development Permit rules (N.J.A.C. 7:7-2) and Wetlands Management rules (N.J.A.C. 7:7A-1). The wetlands maps listed at N.J.A.C. 7:7-2.2(c) were recodified from N.J.A.C. 7:7A-1.13. Pursuant to Executive Order No. 66(1978), Chapter 7 was readopted as R.1989 d.309, effective May 12, 1989 (operative June 5, 1989). See: 21 N.J.R. 369(a), 21 N.J.R. 1526(a). Public Notice: Notice of Routine Program Implementation. See: 25 N.J.R. 1010(a).

Pursuant to Executive Order No. 66(1978), Chapter 7 was readopted as R.1994 d.276 effective May 10, 1994. See: 26 N.J.R. 917(a), 26 N.J.R. 2413(a).

Pursuant to Executive Order No. 66(1978), Chapter 7 was readopted as R.1994 d.378. See: Source and Effective Date: Subchapter 7, General Permits and Permits-By-Rule, was adopted as part of R.1994 d.378, effective July 18, 1994. See: 26 N.J.R. 918(a), 26 N.J.R. 1561(a), 26 N.J.R. 2934(a). See, also, section annotations.

Notice of Routine Program Change. See: 30 N.J.R. 2087(a), 30 N.J.R. 2780(b), 30 N.J.R. 4284(a).

## CHAPTER TABLE OF CONTENTS

## SUBCHAPTER 1. GENERAL PROVISIONS

- 7:7-1.1 Purpose and scope
- 7:7-1.2 (Reserved)
- 7:7-1.3 Definitions
- 7:7-1.4 Standards for evaluating permit applications
- 7:7-1.5 Permits and permit conditions
- 7:7-1.6 Provisional permits
- 7:7-1.7 Emergency permit authorization
- 7:7-1.8 Procedure where more than one permit is required
- 7:7-1.9 Permit fees

- 7:7-1.10 Construction
- 7:7-1.11 Severability

## SUBCHAPTER 2. ACTIVITIES FOR WHICH A PERMIT IS REQUIRED

- 7:7-2.1 CAFRA
- 7:7-2.2 Wetlands
- 7:7-2.3 Waterfront development

## SUBCHAPTER 3. PRE-APPLICATION REVIEW

- 7:7-3.1 Purpose
- 7:7-3.2 Request for a pre-application review
- 7:7-3.3 Discussion of information requirements
- 7:7-3.4 Memorandum of record

## SUBCHAPTER 4. PERMIT REVIEW PROCEDURE

- 7:7-4.1 General
- 7:7-4.2 Application contents
- 7:7-4.3 Availability of application for examination by the public
- 7:7-4.4 Initial review of applications
- 7:7-4.5 Public hearings and public comment periods
- 7:7-4.6 Final review of the application
- 7:7-4.7 Timetable for final decisions
- 7:7-4.8 Publication of the final decision
- 7:7-4.9 Withdrawal, resubmission and amendment of applications
- 7:7-4.10 Requests for modifications
- 7:7-4.11 Suspension and revocation of permits
- 7:7-4.12 (Reserved)

## SUBCHAPTER 5. APPEALS

- 7:7-5.1 Request for review on appeal
- 7:7-5.2 Response to appeal request
- 7:7-5.3 Action on appeal request
- 7:7-5.4 Review of revised application to settle appeal
- 7:7-5.5 (Reserved)

## SUBCHAPTER 6. ENVIRONMENTAL IMPACT STATEMENTS

- 7:7-6.1 When an EIS is required
- 7:7-6.2 Formats and contents
- 7:7-6.3 Preparation

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

- 7:7-7.1 General standards for issuing coastal General Permits and Permits-By-Rule
- 7:7-7.2 General Permit authorization
- 7:7-7.3 Application and review procedure for a General Permit authorization
- 7:7-7.4 Permits-By-Rule
- 7:7-7.5 Long Branch Redevelopment Zone Permit

## SUBCHAPTER 8. ENFORCEMENT

- 7:7-8.1 Authority for N.J.S.A. 13:19-1 et seq. (CAFRA) and N.J.S.A. 12:5-1 et seq. (Waterfront Development)
- 7:7-8.2 Procedures for issuing an administrative order pursuant to N.J.S.A. 13:19-1 et seq. (CAFRA) and N.J.S.A. 12:5-1 et seq. (Waterfront Development)
- 7:7-8.3 Procedures for assessment, settlement and payment of civil administrative penalties for violations of N.J.S.A. 13:19-1 et seq. (CAFRA)
- 7:7-8.4 Procedures to request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment; procedures for conducting adjudicatory hearings for violations of N.J.S.A. 13:19-1 et seq. (CAFRA)

- 7:7-8.5 Civil administrative penalties for failure to obtain a permit for regulated activities pursuant to N.J.S.A. 13:19-1 et seq. (CAFRA)
- 7:7-8.6 Civil administrative penalties for violations of N.J.S.A. 13:19-1 et seq. (CAFRA) other than failure to obtain a permit for regulated activities
- 7:7-8.7 Civil penalty for violations of N.J.S.A. 13:19-1 et seq. (CAFRA)
- 7:7-8.8 Civil administrative penalties for violations of N.J.S.A. 12:5-1 et seq. (Waterfront Development)
- 7:7-8.9 Civil administrative penalty for continuing violation of N.J.S.A. 12:5-1 et seq. (Waterfront Development)
- 7:7-8.10 Procedures for assessment, settlement and payment of civil administrative penalties pursuant to N.J.S.A. 12:5-1 et seq. (Waterfront Development)
- 7:7-8.11 Procedures to request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment; procedures for conducting adjudicatory hearings for violations of N.J.S.A. 12:5-1 et seq. (Waterfront Development)
- 7:7-8.12 Civil penalties for violations of N.J.S.A. 13:9A-1 et seq. (Wetlands Act of 1970)
- 7:7-8.13 Civil actions for violations of N.J.S.A. 13:19-1 et seq. (CAFRA), N.J.S.A. 12:5-1 et seq. (Waterfront Development), and N.J.S.A. 13:9A-1 et seq. (Wetlands Act of 1970)
- 7:7-8.14 Severability

APPENDIX A. ADMINISTRATIVE HEARING REQUEST CHECKLIST AND TRACKING FORM FOR PERMITS

- APPENDIX B
- APPENDIX C
- APPENDIX D

SUBCHAPTER 1. GENERAL PROVISIONS

7:7-1.1 Purpose and scope

(a) This chapter establishes the procedures by which the Department of Environmental Protection will review permit applications and appeals from permit decisions under the Coastal Area Facility Review Act (CAFRA, N.J.S.A. 13:19-1 et seq.), the Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.) and the Waterfront Development Law (N.J.S.A. 12:5-3). These procedures also govern the reviews of Federal Consistency Determinations issued pursuant to the Federal Coastal Zone Management Act, 16 U.S.C. 1451 et seq., and Water Quality Certificates issued pursuant to Section 401 of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., when the approvals are sought in conjunction with any of the foregoing permit applications.

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

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

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

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

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

Case Notes

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

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

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

7:7-1.2 (Reserved)

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

This section "Authority" was repealed.

7:7-1.3 Definitions

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

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

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

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

"Coastal Permit" means a CAFRA, Wetlands or Waterfront Development Permit.

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