

ii. The eight elements are: the development description, site plan, structure description, housing plan, transportation plan, utilities plan, public services plan, and outdoor recreation plan (as appropriate);

3. Environmental assessment and compliance with the Rules on Coastal Zone Management. This section shall include an environmental inventory assessment as described below, a detailed statement of compliance with the Rules on Coastal Zone Management (N.J.A.C. 7:7E), and a listing of adverse impacts, mitigation and alternatives; and

4. Appendices as needed.

(c) The EIS or Compliance Statement shall contain an environmental inventory and assessment which describes and documents, in narrative form, environmental conditions at the site and the surrounding region, and then assesses the probable impacts of the development on the built and natural environment.

(d) The inventory and assessment is to be made with reference to the most current Rules on Coastal Zone Management, N.J.A.C. 7:7E. It should contain sufficient detail to enable an evaluation of the development, to provide a basis for the applicant's assessment of environmental impacts, and to enable the Department to make the necessary findings for permit approval.

1. Specific requirements will vary depending on the magnitude and complexity of the project, and on the sensitivity of the land and water features of the site.

2. An EIS contains a more thorough review of a proposed development's impacts than a Compliance Statement, including such data as traffic analyses, storm-water management calculations, archaeological surveys, environmental resource inventories, habitat assessment, and detailed design specifications for the proposed construction. In most cases, an EIS will address a greater number of rules since the proposed development and associated impacts will be larger in scope. The EIS will also contain more information regarding project alternatives and mitigation measures designed to reduce the overall impact of the proposed development on the environment.

Amended by R.1987 d.217, effective May 18, 1987.

See: 18 N.J.R. 2056(a), 19 N.J.R. 861(b).

(b)4-6 added.

Recodified from 7:7-6.3 and 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).

Prior text at 7:7-6.2, Distribution of EIS to other agencies, repealed.

#### 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).

### 7:7-6.3 Preparation

(a) The level of detail and areas of emphasis in an EIS will vary depending upon the nature and complexity of the facility and the nature of the site and its surrounding regions.

1. The EIS should be concise, and should contain the facts and analyses necessary to evaluate the application with reference to the Department's Rules on Coastal Resource and Development Policies, N.J.A.C. 7:7E.

2. The information should be presented in an analytic, rather than an encyclopedic format.

(b) If the applicant believes that specific elements of the EIS or Compliance Statement are not applicable to the proposed development, the applicant may indicate "not applicable" under the appropriate heading. The reason why the information is not required should be indicated.

(c) The EIS shall be bound or in loose-leaf form, on 8½ by 11 inch paper. All maps, plans and aerial photographs shall specify a north point, graphic scale, name of preparer, date of preparation (including all revisions), and source of information. All appendices shall be labelled on the cover page so that they can be identified.

(d) The EIS or Compliance Statement should be prepared using an interdisciplinary approach, and the qualifications of the persons who prepared each element shall be identified in a separate section. References to information, reports or treatises not contained in the EIS shall be cited throughout the text as appropriate, and in a consistent manner.

(e) The Department recognizes that some or all of the EIS requirements set forth below in (f) may be addressed in an EIS prepared to meet requirements of another governmental agency or body. Such an EIS may be submitted under this subchapter, but must be supplemented in order to comply with (f) below.

(f) The EIS or Compliance Statement must discuss the applicability of the Department's Rules on Coastal Zone Management, N.J.A.C. 7:7E, to the proposal. This information is to be submitted in both map form and as part of the environmental inventory and assessment.

Recodified from 7:7-6.4 and 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).

## 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 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 General Permits. N.J.A.C. 7:7-7.4 describes the activities authorized by Permit-by-Rule.

(b) Before reissuing a General Permit or Permit-By-Rule, or adopting a new General Permit or Permit-By-Rule, the Department will propose a draft General Permit 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 General Permits or Permits-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 General Permit or Permit-By-Rule. After a General Permit has been issued by the Department, the Department will not hold hearings on individual applications for a General Permit.

(d) Each 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 general permit or permit-by-rule applies.

(e) The Department will include in each 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 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 general permit.

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

(g) The Department shall review each 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 general permit and permit-by-rule previously adopted.

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

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

#### 7:7-7.2 General Permit authorization

(a) The following development is authorized under the following General Permits, provided that the activity is in compliance with the specific conditions contained in the General Permit:

1. (Reserved)

2. Amusement Pier Expansion: The expansion of an existing, functional amusement pier, provided that the proposed expansion complies with the following:

- i. The amusement pier was existing and functional as of July 19, 1993 and contained game, ride and food concessions;

- ii. The proposed expansion does not exceed the footprint of the existing, functional amusement pier by more than 25 percent;

- iii. The proposed expansion is located more than 150 feet landward of the mean high water line;

- iv. The proposed expansion is constructed at the same elevation as the existing, functional amusement pier;

- v. The proposed expansion will not eliminate or affect existing, direct public access from the boardwalk to the beach, unless another access point is provided immediately adjacent to the expanded pier for each access point eliminated; and

- vi. The proposed expansion includes a provision for public sitting and viewing at the terminal end of the expansion.

3. Beach and Dune Maintenance Activities: Beach and dune maintenance activities provided they are conducted in accordance with Best Management Practices as defined by the Department in the Rules on Coastal Zone Management, N.J.A.C. 7:7E-3A. Activities which may be authorized under this general permit include dune creation projects, sand transfers using mechanical equipment, and the construction of beach access ways.

4. 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; and

ii. The reconstruction does not result in an increase in the number of dwelling units in the case of residential reconstruction, and does not result in an increase in the number of parking spaces or equivalent parking area within the development in the case of commercial or other reconstruction.

iii. A relocation landward may qualify for this general permit if the Department determines that such a relocation would result in less environmental impact than the prior development.

iv. This General Permit authorization is not required for repairs or maintenance, such as replacing siding, windows or roofs, unless such repair or maintenance is associated with an expansion of the footprint of development.

5. Single Family Home or Duplex: The construction of a single family home or duplex including, but not limited to, all accessory structures (such as garages, sheds, pools, and driveways, excluding shore protection structures) landward of the spring high water line, other than construction authorized under N.J.A.C. 7:7-7.4(a)3, provided that:

i. The project consists solely of the construction of a single family home or duplex and associated improvements (excluding any shore protection structures as well as filling outshore of the spring high tide line), and is not part of a larger development that is owned, controlled or being constructed by the property owner;

ii. The project complies with N.J.A.C. 7:7E-3.16 Dunes, 7:7E-3.22 Beaches, 7:7E-3.27 Wetlands, 7:7E-3.28 Wetland Buffers, 7:7E-3.31 Coastal Bluffs, and 7:7E-3.38 Endangered or Threatened Wildlife or Vegetation Species Habitats;

iii. The project complies with N.J.A.C. 7:7E-3.18 Coastal High Hazard Areas and N.J.A.C. 7:7E-3.19 Erosion Hazard Areas of the Rules on Coastal Zone Management, except as excluded under (a)5xii below;

iv. The use of plastic under landscaped or gravel areas is prohibited. All sub-gravel liners must be made of filter cloth or other permeable material;

v. The driveway is covered with a permeable material or is pitched to drain all runoff onto permeable areas of the site;

vi. On oceanfront sites with existing or proposed shore protection structures, the dwelling and all other permanent structures (except decks) are 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;

vii. On non-oceanfront sites with existing or proposed shore protection structures, the dwelling and all other permanent structures (except decks) are set back at least 15 feet from existing or proposed shore protection structures. If there is no alternative to locating the proposed development at least 15 feet landward of the shore protection structure, the Department shall reduce the required set back if an engineering certification is provided demonstrating that, after the proposed development has been constructed, the shore protection structure can be replaced within 18 inches of the existing shore protection structure and a deed restriction 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;

viii. For wooded sites, site clearing shall be limited to an area no more than 20 feet from the footprint of the dwelling and the area necessary for driveway, septic and utility line installations;

ix. In non-tidal areas, the lowest structural member is at or above the base flood elevation;

x. In tidal areas:

(1) The lowest floor (including the basement, if any) is elevated to or above the base flood elevation within designated zones A1 through A30 on the community's Flood Insurance Rate Maps;

(2) The building is elevated on pilings so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings) is elevated to or above the base flood level within designated zones V1 through V30 on the community's Flood Insurance Rate Maps;

(3) The dwelling is constructed as close as possible to the landward site boundary, and is not constructed waterward of the adjacent developments;

xi. For sites adjacent to or including surface water bodies or wetlands, a silt fence with a 10-foot landward return is erected at the limit of disturbance along the waterward and wetland sides of the development before

construction begins. This fence must be maintained and remain in place until all construction and landscaping is completed; and

xii. Construction of a single family home or duplex that meets the other requirements of this rule and is located on a site partially or completely within the erosion hazard area or coastal high hazard area need not comply with the Erosion Hazard Area or Coastal High Hazard Area rules if the site meets the following criteria:

(1) It was shown as a subdivided lot prior to July 19, 1993;

(2) The lot is served by a municipal sewer system; and

(3) A house or commercial building is located on each lot abutting the lot lines perpendicular to the shoreline and the existing house or commercial building is located within 100 feet of said lot lines;

xiii. This general permit is not available for activities subject to the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.

6. Single Family or Duplex Expansion: The expansion of a legally constructed, habitable single family or duplex dwelling including, but not limited to, all accessory structures (that is garages, sheds, pools, and driveways, but excluding shore protection structures), landward of the spring high water line which does not qualify for permits listed in this subchapter provided that:

i. The project consists solely of the expansion of a single family home or duplex and associated improvements landward of the spring high water line (excluding any shore protection structures as well as filling offshore of spring high water), and is not part of a larger development that is owned, controlled, or being constructed by the property owner;

ii. The expansion complies with N.J.A.C. 7:7E-3.16 Dunes, 7:7E-3.22 Beaches, 7:7E-3.27 Wetlands, 7:7E-3.28 Wetland Buffers, 7:7E-3.31 Coastal Bluffs, and 7:7E-3.38 Endangered or Threatened Wildlife or Vegetation Species Habitats;

iii. The project complies with N.J.A.C. 7:7E-3.18 Coastal High Hazard Areas and N.J.A.C. 7:7E-3.19 Erosion Hazard Areas of the Rules on Coastal Zone Management, except as excluded under (xii) below;

iv. The expansion does not include the placement of plastic under landscaped or gravel areas; any sub-gravel liners placed in connection with the expansion are made of filter cloth or other permeable material;

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

vi. On oceanfront sites with existing or proposed shore protection structures, the dwelling and all other permanent structures (except decks) are 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;

vii. On non-oceanfront sites with existing or proposed shore protection structures, the dwelling and all other permanent structures (except decks) are set back at least 15 feet from existing or proposed shore protection structures. If there is no alternative to locating the proposed development at least 15 feet landward of the shore protection structure, the Department shall reduce the required set back if an engineering certification is provided demonstrating that, after the proposed development has been constructed, the shore protection structure can be replaced within 18 inches of the existing shore protection structure and a deed restriction 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.

viii. For wooded sites, the expansion will not result in the clearing of a site beyond an area more than 20 feet from the footprint of the dwelling and beyond the area necessary for driveway, septic system and utility line installations;

ix. In non-tidal areas, the lowest structural member added by the expansion is at or above the base flood elevation;

x. In tidal areas:

(1) The lowest floor (including the basement, if any) added by the expansion is elevated to or above the base flood elevation within designated zones A1 through A30 on the community's Flood Insurance Rate Maps; or

(2) The expanded portion of the building is elevated on pilings so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings) is elevated to or above the base flood level within designated zones V1 through V30 on the community's Flood Insurance Rate Maps;

xi. For sites adjacent to or including surface water bodies or wetlands, a silt fence with a 10-foot landward return is erected at the limit of disturbance along the waterward and wetland sides of the development before construction begins. This fence must be maintained and remain in place until all construction and landscaping is completed; and

xii. A single family home or duplex that meets all other conditions of this rule and is located on a site partially or completely within the erosion hazard area or coastal high hazard area need not comply with the Erosion Hazard Area or Coastal High Hazard Area rules if the site meets the following criteria:

- (1) It was a subdivided lot prior to July 19, 1993;
- (2) The lot is served by a municipal sewer system; and
- (3) A house or commercial building is located on each lot abutting the lot lines perpendicular to the shoreline and said house or commercial building is located within 100 feet of said lot lines;

xiii. This general permit is not available for activities subject to the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.

7. Bulkhead Construction and Placement of Associated Fill: The construction of a bulkhead or revetment on a lot located on a substantially developed manmade lagoon, provided that the proposed bulkhead complies with all of the following:

- i. The site is located on a substantially developed manmade lagoon as defined at N.J.A.C. 7:7-1.3;
- ii. The bulkhead is located at or above the spring high water line unless it is between two existing lawful bulkheads not more than 75 feet apart. In such cases, the connecting bulkhead may not extend seaward of a straight line connecting the ends of the existing bulkheads;
- iii. There shall be no disturbance to wetlands during construction;
- iv. The bulkhead is located inshore of any wetlands;
- v. A minimum 10 foot return shall be constructed at each end of the bulkhead unless it is tied into an existing adjacent bulkhead; and
- vi. Clean fill from an upland source shall be used for backfill.

8. Revetment Construction at a Single Family/Duplex Lot: For the purpose of this section a revetment is defined as a sloped structure composed of rip rap or gabions which is installed along a shoreline, excluding the Atlantic Ocean, Delaware Bay, Raritan Bay and Sandy Hook Bay, to protect against erosion by waves or currents. The construction of a revetment on a waterbody is acceptable provided that the proposed revetment complies with all of the following:

- i. The site of the proposed revetment shall be stabilized with a maximum slope not to exceed one vertical to two horizontal (1:2);
- ii. The placement of rip rap or gabions in the waterway shall be limited to that necessary to protect the shoreline;
- iii. Fill material shall be minimized and added only where needed to achieve uniform slope, shall be free of large stones and shall be firmly compacted before revetment construction begins;

iv. Filter fabric (or graded stone filter) shall be installed to prevent loss of slope materials through voids in the revetment material;

v. Revetment stones shall be angular and blocky, not rounded;

vi. The toe of the revetment shall be located at least three feet below existing grade to prevent undercutting;

vii. Weight of individual stone shall be determined by a design engineer based on wave height range for the site;

viii. Placement of a revetment in wetlands is prohibited;

ix. The revetment will not cause erosion of adjacent properties;

x. The gabion baskets shall be tightly packed with four inch to eight inch diameter stone (to minimize movement of the interior stone and consequent damage to the wire) and the edges shall be laced together with steel wire;

xi. Individual baskets shall be wired together; and

xii. The size and number of gabion baskets shall be determined by a design engineer based on wave height range for the site.

9. Support Facilities at Legally Existing and Operating Commercial Marinas including marinas operated by public agencies, commissions and authorities: The construction of the support facilities listed in (a)9i through ix below is acceptable provided they comply with the specific conditions listed for each facility and with the conditions listed at (a)9ix below:

i. Boat rack systems/marina support buildings including, but not limited to, showroom, maintenance/repair, marine supplies, bait/tackle, boat sales, dock masters office buildings, sheds, excluding residential development.

(1) The building is to be set back a minimum of 100 feet from the mean high water line;

(2) The building or rack system shall be set back a minimum of 50 feet from the inland limit of any wetlands;

(3) The building and rack system shall be located in an existing cleared and maintained area of the site;

(4) The marina must provide or maintain rest rooms and at least one portable toilet emptying receptacle in accordance with N.J.A.C. 7:7E-7.3(d); and

(5) Marinas with dockage for 25 or more vessels or any one vessel with live aboard arrangement must provide for adequate and conveniently located pump-out stations.

## ii. Restrooms.

## (1) The restroom facilities shall:

(A) Discharge to a municipal or regional treatment plant where practicable; or

(B) Discharge to a subsurface sewage disposal system;

(2) Restrooms shall provide both hot and cold water and shall be maintained in a sanitary, warm, dry, brightly-lit and well ventilated condition;

(3) The restroom building shall be set back a minimum of 100 feet from the mean high water line unless the Department determines that there is no alternate location; and

(4) The restroom building shall be set back a minimum of 50 feet from the inland limit of any wetlands, unless the Department determines that there is no alternate location.

## iii. Pumpout Facilities (Marine Sanitation Devices).

## (1) The pumpout facilities shall:

(A) Discharge to a municipal or regional treatment plant where practicable;

(B) Discharge to a subsurface sewerage disposal system; or

(C) Discharge to a holding tank with waste being removed by a licensed septage hauler. A marina employing this method shall maintain a record of waste removal.

## iv. Construction of a sewer line to connect restrooms and pumpouts to existing sewer lines.

## (1) The new sewer line shall:

(A) Obtain a Treatment Works Approval from the Department's Bureau of Connection and Construction Permits;

(B) Be consistent with the 208 Water Quality Management Plan;

(C) Not result in adverse secondary impacts;

(D) Connect to an existing sewer line located immediately adjacent to the site;

(E) Have no prudent or feasible alternative alignment which would have less impact to Special Areas as defined at N.J.A.C. 7:7E-3;

(F) Not result in permanent or long term loss of Special Areas as defined at N.J.A.C. 7:7E-3; and

(G) Appropriate measures shall be used to mitigate adverse environmental impacts to the maximum extent feasible, such as restoration of disturbed vegetation, habitats, and land and water features;

## v. Gasoline pump and associated pipes and tanks on the upland portion of the marina.

(1) The gasoline pump and associated pipes and tanks shall be located on the upland portion of the site;

(2) The marina must have available adequate floating containment booms and absorbent materials in the event of hydrocarbon spills;

(3) Fuel pumps shall 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

(4) Obtain any other required approvals for the construction of underground or above ground storage tanks.

## vi. Boat handling facilities including, but not limited to: winches, gantries, railways, platforms and lifts, hoists, cranes, fork lifts and ramps;

(1) The boat handling facility (excluding boat ramp and railways) shall be located landward of the mean high water line; and

(2) The boat handling facility shall not be located in a wetlands area.

## vii. A single marina support building not exceeding a footprint of 120 square feet.

(1) The marina building shall not be located in wetlands.

## viii. Construction of water lines and fences provided that:

(1) It has no prudent or feasible alternative alignment which would have less impact on Special Areas as defined at N.J.A.C 7:7E-3;

(2) It will not result in permanent or long term loss of Special Areas as defined at N.J.A.C. 7:7E-3; and

(3) Appropriate measures shall be used to mitigate adverse environmental impacts to the maximum extent feasible, such as restoration of disturbed vegetation, habitats, and land and water features;

## ix. The construction of the items listed at (a)9i through viii above shall also comply with the following:

(1) Public access shall be provided in accordance with the Public Access to the Waterfront rule (N.J.A.C. 7:7E-8.11); and

(2) Trash receptacles along with adequate fish cleaning areas, including separately marked dispensers for organic refuse, shall be provided.

## 10. Reconstruction of a legally existing functioning bulkhead is acceptable provided that:

i. The reconstructed bulkhead is in-place, upland or within 18 inches outshore (as measured from the waterward face of the existing bulkhead to the waterward face of the proposed bulkhead) of the existing bulkhead;

ii. The replacement bulkhead is located upland of any wetlands;

iii. With the exception of individual single family/duplex properties, 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);

iv. The construction of bulkheads subject to wave runup forces (V-zones) shall be designed and certified by a professional engineer to withstand the forces of wave runup, 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;

v. The placement of rip-rap along the seaward toe of the replacement bulkhead structure may qualify for this 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;

vi. The structure will not create net adverse shoreline movement downdrift, including erosion or shoaling;

vii. The construction shall have no adverse impact to any Special Areas defined at N.J.A.C. 7:7E-3; and

viii. Clean fill from an upland source shall be used for backfill.

11. Hazardous Waste Clean Up: 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 or removal 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:

i. If the proposed cleanup activity is to take place in Special Areas as defined at N.J.A.C. 7:7E-3, the general permit authorization shall be issued only if the Department finds that there are no practicable alternatives to the investigation, cleanup and removal 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;

ii. If the proposed activities are to take place in a wetland or transition area regulated pursuant to the Freshwater Wetlands Protection Act, the appropriate

Freshwater Wetlands Protection Act authorization shall be obtained;

iii. 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 cleanup or it may be submitted as part of the general permit application. The 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; and

iv. Mitigation may be required in accordance with the Rules on Coastal Zone Management, N.J.A.C. 7:7E, for disturbance to Special Areas as defined at N.J.A.C. 7:7E-3.

12. Landfall of Utilities, including cable (that is electric, television and fiber optics), telecommunication, petroleum, natural gas, water and sanitary sewer lines constructed in tidal waterbodies authorized pursuant to the Waterfront Development Law provided that:

i. The location of existing facilities prior to excavation shall be performed pursuant to the Underground Facility Protection Act, P.L.1994, c.118 (N.J.S.A. 48:2-73 et seq.);

ii. The width of the area disturbed within the right-of-way of the project is no more than 20 feet;

iii. Excavated areas for the placement of the utility landfall shall be returned to the pre-existing elevation using the original soil, if feasible or other suitable material to backfill from a depth of 18 inches to the original grade and revegetated;

iv. The utility landfall shall have no adverse impacts to Special Areas as defined in the Rules on Coastal Zone Management N.J.A.C. 7:7E;

v. A silt fence and/or other soil erosion controls shall be installed prior to excavation and shall remain in place until final restoration is complete;

vi. The staging area and construction equipment shall not be placed directly into the tidal water. Construction equipment shall be land based or based on barges; and

vii. All underground cutting agents/lubricants shall be contained and properly disposed. Use of a vacuum trucks may be required for large drilling operations.

13. Construction of Recreational Facilities at Public Parks: The construction of the following recreational facilities at parks which are publicly owned or controlled for the purposes of public access is acceptable provided that the construction complies with (a)13viii below and that the facilities are not located on dunes or in wetlands, except as noted at (a)13vii below:

- i. Construction of playground equipment including, but not limited to, swings, slides, and jungle gyms;
  - ii. Construction of picnic tables, benches and grills which are not seasonal;
  - iii. Construction of gazebos, rain shelters and sheds provided they do not exceed a footprint 200 square feet;
  - iv. Construction of pathways, bicycle paths and jogging trails and associated fitness equipment provided they are not located on a beach;
  - v. Construction of restrooms provided they:
    - (1) Discharge to a municipal or regional treatment plant where practicable; or
    - (2) Discharge to a subsurface sewerage disposal system;
    - (3) The restroom building shall be set back a minimum of 100 feet from the mean high water line unless the Department determines that there is no alternate location; and
    - (4) The restroom building shall be set back a minimum of 50 feet from the inland limit of any wetlands, unless the Department determines there is no alternate location;
  - vi. Construction of fences which do not require permanent footings.
  - vii. Trail or boardwalk construction in wetlands is acceptable provided that:
    - (1) The width of the trail or boardwalk does not exceed six feet, except for barrier free trails or boardwalks designed in accordance with the Barrier Free Subcode of the Standard Uniform Construction Code, N.J.A.C. 5:23-7. This general permit does not authorize construction of restrooms, gazebos, rain shelters, or any covered or enclosed structure;
    - (2) The height of the structure over wetlands shall be a minimum of four feet regardless of width;
    - (3) The project does not interfere with the natural hydrology of the area;
    - (4) The project does not encroach upon or adversely affect the habitat of any threatened or endangered species; and
  - viii. The construction of the recreational facilities shall have no adverse impact on any Special Areas defined at N.J.A.C. 7:7E-3.
14. Bulkhead Construction and Placement of Associated Fill: The construction of a bulkhead at a single family/duplex lot on a natural waterbody, provided that the proposed bulkhead complies with the following:
- i. Legally existing functional bulkheads are located on the lots adjacent to the proposed bulkhead and are no more than 75 feet apart;
    - ii. The bulkhead will be located at or above the spring high water line;
    - iii. There shall be no disturbance to wetlands during construction;
    - iv. Clean fill from an upland source shall be used for backfill;
    - v. The bulkhead shall not be located further waterward than the bulkheads on the adjacent properties;
    - vi. In the event that the bulkhead will be located landward of the adjacent bulkheads, the new bulkhead shall connect to the bulkhead on either side;
    - vii. The construction of bulkheads subject to wave runup forces (V-zones) shall be designed and certified by a professional engineer to withstand the forces of wave runup, 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;
    - viii. The placement of rip-rap along the seaward toe of the bulkhead structure may qualify for this 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; and
    - ix. The bulkhead is located a minimum of five feet inshore of any wetlands;
    - x. This general permit is not available for activities subject to the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.
15. Construction of piers, docks including jet ski ramps, pilings and boatlifts in man-made lagoons shall be acceptable provided that:
- i. The structures shall be located on individual single family or duplex lots and shall be for recreational/non-commercial use;
  - ii. The structures shall not extend beyond a distance of 20 percent of the width of a man-made lagoon;
  - iii. The width of the dock or pier shall not exceed twice the clearance between the structure and the surface of the ground below or the water surface at mean high tide, except for floating docks. For example, an eight foot wide dock must be elevated a minimum of four feet above the water surface at mean high tide;

iv. The maximum width of the structure shall be eight feet, except where crossing wetlands, mudflats, where the proposed structure shall be constructed perpendicular to the shoreline to access sufficient water depth and shall not exceed six feet in width. In any case, the height of the structure over wetlands shall be a minimum of four feet;

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

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

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

viii. For docks which are perpendicular to the adjacent bulkhead or shoreline construction and placement of the dock shall be a minimum of four feet from all property lines;

ix. The space between horizontal planking is maximized and the width or horizontal planking is minimized to the maximum extent practicable. Under normal circumstances, a minimum of +38 inch,  $\frac{1}{2}$  inch,  $\frac{3}{4}$  inch or one inch space is to be provided for four inch, six inch, eight to 10 inch, or 12 inch plus wide planks respectively;

x. Jet ski ramps are inclined floating docks which are typically attached to existing docks for the purpose of docking jet skis. Jet ski ramps shall not exceed eight feet in width; and

xi. For sites which have existing dock structures exceeding eight feet in width over water areas and/or wetlands, which were constructed prior to September 1978 and for which the applicant proposes to increase the coverage over the water area or wetland by increasing the number or size of boat slips, docks or piers, the existing oversized structures must be reduced to a maximum of eight feet in width.

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

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

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

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

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

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

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

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

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

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

#### Law Review and Journal Commentaries

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

#### Case Notes

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

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

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

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

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

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

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

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

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

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

(b) (Reserved)

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

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

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

1. A description of the location of the proposed activities, including county, municipality, lot(s) and block(s);
2. A plan showing the specific location of all proposed activities;
3. A description of the specific activities proposed for each location;
4. The name, title, address and phone number of the person(s) responsible for supervising the proposed activities to ensure compliance with the referenced standards; and
5. The schedule for conducting the specific activities.

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

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

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

1. Three copies of a site plan showing the following:
  - i. The mean high and mean low water lines of the tidal waters at the site;
  - ii. The upper and lower limits of wetlands within 150 feet of the proposed limits of disturbance;
  - iii. Existing structures including all waterfront structures (docks, pilings and bulkheads) on the project site and adjacent waterfront properties;
  - iv. The opposite side of the lagoon; and
  - v. The proposed dock, pier, piling and bulkhead; and
2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)15, including supplemental documents in the form of maps, surveys, etc.;

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

1. Three copies of a site plan showing the following:
  - i. The mean high and mean low water lines of the tidal waters at the site;
  - ii. The upper and lower limits of wetlands on site and on adjacent lagoonfront properties;
  - iii. The existing and proposed water depths in the area to be dredged;
  - iv. Proposed cross sections of area to be dredged;

- v. The location of dredge material disposal site;
- vi. Method of dredging; and
- vii. The method of stabilization of dredging material;
2. A Compliance Statement pursuant to N.J.A.C. 7:7-6, demonstrating how the proposed project complies with the criteria listed in N.J.A.C. 7:7-7.2(a)16, including supplemental documents in the form of maps, surveys, etc.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Law Review and Journal Commentaries

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#### 7:7-7.4 Permits-By-Rule

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

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

2. (Reserved)

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

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

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

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

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

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

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

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

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

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

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

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 non-residential 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 permit-by-rule 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 Rules on Coastal Zone Management, 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 Rules on Coastal Zone Management (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.

(b) A person wishing to engage in an activity covered by a Permit-By-Rule shall submit notification to the Department to be received by certified mail 45 days prior to commencement of the proposed work. For persons wishing to engage in the activities listed at (a)5 and 6 above, the Waterfront Development Permit application shall be considered notification, and the Department shall issue the Permit-By-Rule in conjunction with the Waterfront Development Permit. Such notification shall be sent to: Administrator, DEP—Land Use Regulation Program, CN 401, Trenton, New Jersey 08625, and shall include:

1. A completed LURP application form.
2. A plan showing existing development and the proposed expansion including its dimensions and location;
3. A site location map; and

4. Photographs showing the area of the proposed development.

(c) If the Department determines that the proposed development does not qualify for the Permit-By-Rule, the Department will provide a Notice of Ineligibility for the Permit-By-Rule within 45 days of receipt of the notification by the Department. The Notice of Ineligibility will specify which conditions of the Permit-By-Rule are not met. If the Department determines the application to be ineligible for the Permit-By-Rule, no construction shall proceed until the applicant:

1. Modifies the proposed development to meet the conditions of the Permit-By-Rule and submits new notice of the Permit-By-Rule to the Department, showing revised development. The Department shall issue its decision within 45 days of receipt of the new notice; or
2. Receives a General Permit or Individual Permit from the Department for the proposed development.

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

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## SUBCHAPTER 8. ENFORCEMENT

### Source and Effective Date

R.1994 d.413, effective August 1, 1994.  
See: 26 N.J.R. 1745(a), 26 N.J.R. 3188(a).

### 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)

(a) Whenever the Department finds that a person has violated any provision of N.J.S.A. 13:19-1 et seq., or any regulation, rule, permit, or order adopted or issued by the Department pursuant thereto, the Department may, singly or in combination, pursue the remedies specified in 1 through 4 below. Pursuit of any of the remedies specified under this section shall not preclude the seeking of any other remedy specified.

1. Issue an order requiring the person found to be in violation to comply in accordance with N.J.A.C. 7:7-8.2;
2. Bring a civil action for injunctive and other relief in accordance with N.J.A.C. 7:7-8.13;
3. Levy a civil administrative penalty in accordance with N.J.A.C. 7:7-8.5 or 7:7-8.6; and/or
4. Bring an action for a civil penalty in accordance with N.J.A.C. 7:7-8.7.

(b) Any development or improvement enumerated in N.J.S.A. 12:5-3 and in N.J.S.A. 13:1D-29 et seq., or included within any rule or regulation adopted pursuant thereto, which is commenced or executed without first obtaining approval, or contrary to the conditions of approval, as provided in N.J.S.A. 12:5-3 and in N.J.S.A. 13:1D-29 et seq., shall be deemed to be a purpresture, a public nuisance and a violation of N.J.S.A. 12:5-1 et seq. and shall be abated in the name of the State by one or more of the following actions:

1. The issuance of an administrative order in accordance with N.J.A.C. 7:7-8.2;
2. The commencement of a civil action by the Department in Superior Court for injunctive or other appropriate relief in accordance with N.J.A.C. 7:7-8.13; and/or
3. The levying of an administrative penalty by the Department in accordance with N.J.A.C. 7:7-8.10 and 8.11.

(c) The Department has the power, as enumerated in N.J.S.A. 13:1D-9, and consistent with constitutional requirements, to enter and inspect any building or place for the purposes of ascertaining compliance or noncompliance with any codes, rules and regulations of the Department.

**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)**

(a) Whenever the Department finds that a person has violated any provision of N.J.S.A. 13:19-1 et seq., or any regulation, rule, permit, or order adopted or issued by the Department pursuant to N.J.S.A. 13:19-1 et seq., the Department may issue an order specifying the provision or provisions of the act, regulation, rule, permit, or order of which the person is in violation citing the action which constituted the violation, ordering abatement of the violation, and giving notice to the person of his or her right to a hearing on the matters contained in the order. The ordered party shall have 20 days from receipt of the order within which to deliver to the Department a written request for a hearing in accordance with N.J.A.C. 7:7-8.4. After the hearing and upon finding that a violation has occurred, the Department may issue a final order. If no hearing is requested, then the order shall become final after the expiration of the 20-day period. A request for hearing shall not automatically stay the effect of the order.

(b) Any development or improvement commenced or executed in violation of the Waterfront Development Act, N.J.S.A. 12:5-1 et seq., may be abated by the State by the issuance of an administrative order by the Commissioner specifying that there has been a violation of the provisions of this section, or any applicable rule, regulation or permit; setting forth the facts forming the basis for the issuance of the order; and specifying the course of action necessary to correct the violation. Procedures to request a hearing on an administrative order issued pursuant to this subsection are contained in N.J.A.C. 7:7-8.11.

**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)**

(a) To assess a civil administrative penalty under N.J.S.A. 13:19-1 et seq., the Department shall notify the violator by certified mail (return receipt requested) or by personal service. This Notice of Civil Administrative Penalty Assessment (NOCAPA) shall:

1. Identify the section of the statute, rule, administrative order or permit violated;
2. Concisely state the alleged facts which constitute the violation;
3. Specify the amount of the civil administrative penalty to be imposed and the fact that interest may be due in accordance with (c) below; and
4. Advise the violator of the right to request an adjudicatory hearing pursuant to the procedures in N.J.A.C. 7:7-8.4.

(b) Payment of the civil administrative penalty is due upon receipt by the violator of the Department's final order in a contested case, or when a notice of civil administrative penalty assessment becomes a final order, as follows:

1. If no hearing is requested pursuant to N.J.A.C. 7:7-8.4, a notice of civil administrative penalty assessment becomes a final order and is deemed received on the 21st day following receipt of the notice of civil administrative penalty assessment by the violator;
2. If the Department denies the hearing request pursuant to N.J.A.C. 7:7-8.4(b), a notice of civil administrative penalty assessment becomes a final order on the 21st day following receipt of the notice of civil administrative penalty assessment by the violator;
3. If the Department denies the hearing request pursuant to N.J.A.C. 7:7-8.4(c), a notice of civil administrative penalty assessment becomes a final order upon receipt of notice of such denial; or
4. If the Department grants the hearing request, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of a final order in a contested case.

(c) In addition to the amount of the civil administrative penalty that is due and owing pursuant to (b) above, the violator shall also pay to the Department the interest on the amount of the penalty, at the rate established by the New Jersey Supreme Court for interest rates on judgments as set forth in the Rules Governing the Courts of the State of New Jersey. Interest shall accrue on the amount of the civil administrative penalty due and owing from the date the payment is due and continuing until the civil administrative penalty is paid in full with interest if: