

(e) A permit application may be amended at the applicant's discretion at any time as part of the permit review process. Copies of amendments and amended information shall be distributed by the applicant to the same person to whom copies of the initial application were distributed. All amendments to pending applications shall constitute a new submission and may at the Department's discretion require reinitiation of the entire review process.

New Rule: R.1992 d.117, effective March 16, 1992.
See: 23 N.J.R. 338(a), 24 N.J.R. 975(b).

SUBCHAPTER 10. PRE-APPLICATION CONFERENCES

7:7A-10.1 Purpose

A pre-application conference is optional, but highly recommended. It allows the Department to inform potential applicants of the various procedures and policies which apply to the freshwater wetlands, open water fill, stream encroachment, and coastal program permitting process. Department staff will candidly discuss the apparent strengths and weaknesses of the proposed permit application at this conference, but the Department shall in no way commit itself to approval or rejection of a proposed project as a result of these discussions.

Amended by R.1992 d.117, effective March 16, 1992.
See: 23 N.J.R. 338(a), 24 N.J.R. 975(b).

Added reference to stream encroachment and coastal program.

7:7A-10.2 Request for a pre-application conference

(a) Potential applicants may request a pre-application conference with the Department. A request for a pre-application conference shall be made in writing and shall include a project description, a tax lot and block designation of the site, the location of the project site, including the municipality and county, the general location of freshwater wetlands and State regulated waters, a copy of the appropriate United States Soil Conservation Service map(s) locating the project, and a United States Geological Survey quadrangle map showing the site. The Department encourages the applicant to obtain a letter of interpretation prior to the pre-application conference.

(b) The Department shall, within 15 days of receipt of such request, schedule a pre-application conference.

Amended by R.1992 d.117, effective March 16, 1992.
See: 23 N.J.R. 338(a), 24 N.J.R. 975(b).

Further delineated information which should be part of the pre-application conference request.

7:7A-10.3 Discussion of information requirements

The Department shall candidly discuss the level of detail and areas of emphasis which will be necessary to allow the Department to review the application if one is submitted.

7:7A-10.4 Memorandum of record

(a) After the pre-application conference, the Department shall prepare a written memorandum of record summarizing the discussion of the apparent strengths and weaknesses of the proposed project, the apparent sensitivity of the land and water features of the site, and the level of detail and areas of emphasis necessary in the materials that the potential applicant may be required to submit as part of the application.

(b) The memorandum of record shall be mailed to the potential applicant or his or her agent, if designated in writing, and to the municipality, within 30 days after the pre-application conference. If the potential applicant submits an application, a copy of the memorandum of record shall be included with the application, and shall be included in the Department's file on the application.

(c) The memorandum of record shall not be construed as a decision of the Department. The Department is in no way bound by any information or statement recorded in the memorandum of record.

SUBCHAPTER 11. APPLICATION PROCEDURE

7:7A-11.1 Application contents for Individual Freshwater Wetlands and Open Water Fill Permits

(a) The Element will issue joint permits for projects requiring more than one Element permit whenever possible. It is strongly recommended that an applicant requiring more than one Element permit submit all applications materials simultaneously to facilitate joint permit processing. For example, the submission of all information necessary for both a Freshwater Wetlands permit and a Stream Encroachment permit at the same time will facilitate the issuance of a joint permit.

(b) The application for a freshwater wetland permit or open water fill permit shall include 10 copies of the following information:

1. A completed freshwater wetlands permit or open water fill permit application form including the names and addresses of all owners of property adjacent to the property which is the site of the proposed project. All activities which the applicant plans to undertake which are reasonably related to the same project should be included in the same permit application and will be considered simultaneously with the review of the individual permit. Only one application fee will be required to review all regulated activities in freshwater wetlands, State open waters and transition areas associated with the project;

2. A folded preliminary site plan or subdivision map of the proposed regulated activities, or other map of the site if no preliminary site plan or subdivision map exists;

3. A written description of the proposed regulated activity, the total area to be used, filled or modified, the total area of the freshwater wetland or State open waters potentially affected, identification of the watershed in which the project is located, and the relationship of the area affected to the area of the entire freshwater wetland or State open waters complex, for example, one-half acre to be filled of a 15 acre freshwater wetland. In addition, project elements affecting transition areas should be detailed;

4. A description of the source of any fill material and a description of the type, composition and quantity of the material. For dredge projects, submit the information as listed at N.J.A.C. 7:7A-4.3(c)2;

5. A description of alternatives to the proposed activity or discharge, including alternative sites, construction methods, methods of discharge, and reasons for rejecting the alternatives pursuant to N.J.A.C. 7:7A-3, General Standards for Granting Individual Freshwater Wetlands and Open Water Fill Permits;

6. The purpose and intended use of the proposed activity, including whether it is water-dependent; a description of the uses of any structures to be erected; and a schedule for the progress and completion of the proposed activity;

7. A list of the approvals required by other Federal, interstate, State and local agencies for the activity, including all approvals or denials received;

8. A copy or photocopy of a portion of the U.S.G.S. 7.5 minute quadrangle map (available from the Department's Maps and Publications Office, CN 402, Trenton, NJ 08625) showing the location of the property and its general vicinity, indicating and labeling the location of the proposed activity and the property boundaries, and a determination of the State Plane Coordinates for the center of the property. The accuracy of these coordinates should be within 50 feet of the actual point. For linear projects, the applicant shall provide State plane coordinates for the end-points of those projects which are 1,999 feet or less, and for those projects which are 2,000 feet and longer, additional coordinates at each 1,000 foot interval;

9. Verification that a complete copy of the application for an Individual permit, including all materials required by this subsection, has been submitted to the clerk of the municipality in which the proposed regulated activity will occur. Verification that a certified mail notice with return receipt requested (white receipt or green card is acceptable) and a copy of the vicinity map in (a)8 above have been forwarded to the environmental commission or any other public body with similar responsibilities, and planning board of the municipality in which the proposed regulated activity will occur; the planning board, environmental commission and county mosquito control agency of the county in which the proposed regulated activity will occur; landowners within 200 feet of the property or properties on which the proposed regulated activity will occur (applicant shall also provide a list of all landowners within 200 feet), and all persons as identified by the Department who requested to be notified of proposed regulated activities (the Department will furnish a list of such persons upon request), which notice may, at the applicant's option, be filed concurrently with notices required pursuant to N.J.S.A. 40:55D-1 et seq. A copy of the notice shall be included in the application to the Department. The notice shall include the following:

i. The name and address of the applicant and, if different, the address or location of the activity or activities regulated by the permit;

ii. The name, address, and telephone number of the applicant or agent to contact for further information;

iii. A brief description of the proposed activity, its purpose and intended use, so as to provide sufficient information concerning the nature of the activity to generate meaningful comments, including a description of the type of structures, if any, to be erected on fills, and a description of the type, composition and quantity of materials to be discharged;

iv. A plan and elevation drawing showing the general and specific site location (drawings may be 8.5 by 11 inches);

v. Any other information which is necessary to evaluate the likely impact of the proposed activity;

vi. The following statement:

"This letter is to provide you with legal notification that the referenced property owner is applying to the New Jersey Department of Environmental Protection, Land Use Regulation Element for an Individual Freshwater Wetlands permit.

An Individual permit will allow the property owner to conduct activities in freshwater wetlands or State open waters.

The complete Individual permit application package can be reviewed at either the municipal clerk's office or by appointment at the Land Use Regulation Element office at the address listed below. The Department of Environmental Protection welcomes comments and any information that you may provide concerning the wetlands or open waters on the referenced parcel. Please submit your written comments within 15 days of receiving this letter. In addition, interested persons may request in writing that the Department hold a public hearing on this application. Requests shall be made in writing within 30 days after the notice of application in the DEPE Bulletin and shall state the nature of the issues proposed to be raised at the hearing. Both comments and hearing requests should be sent along with a copy of this letter to:

New Jersey Department of Environmental Protection
Land Use Regulation Element
Bureau of Regulation
CN 401
5 Station Plaza
Trenton, New Jersey 08625

att: (County in which the property is located) Section Chief

As part of the review of this application, Department personnel may perform a site inspection on your property. This site inspection will involve only that area within a maximum of 150 feet from the border of the applicant's property. This site visit will involve a visual inspection and possibly minor soil borings using a 4" diameter hand auger. The inspection will not result in any damage to the vegetation or improvements on your property.

The Department will notify your municipal environmental commission, planning board and the municipal construction official of the Department's approval or denial of the Individual permit application";

10. Verification that notice of the proposed activity has been published as a display advertisement in an official newspaper used by the municipality, in which the activity is proposed, for legal notice. For projects proposing more than 10 acres of fill, notification shall also be published in a newspaper of regional circulation;

11. A statement detailing any potential adverse environmental effects of the regulated activity and any measures necessary to prevent and/or minimize those effects, and any information necessary for the Department to make the findings pursuant to N.J.A.C. 7:7A-3. Applicants should review N.J.A.C. 7:7A-3 in great detail and provide all the listed information to avoid unnecessary delays in permit processing;

12. A fee as set forth in the fee schedule published by the Department at N.J.A.C. 7:7A-16;

13. A list and brief description of all freshwater wetlands, special aquatic sites as defined at N.J.A.C. 7:7A-1.4, public use areas, wildlife refuges, and public water supply intakes in the affected or adjacent areas that may require special protection or preservation;

14. A list of plants fish, shellfish and/or wildlife in the proposed activity or discharge site which may be dependent on water quality and quantity;

15. Uses of the proposed activity or discharge site which might affect human health and welfare; and

16. A description of technologies or management practices by which the applicant proposes to minimize adverse environmental effects of the activity or discharge.

(NOTE: The Department shall upon request provide permit applicants with guidance, either through the application form or on an individual basis, regarding the level of detail of information and documentation required under this subsection. The level of detail shall be reasonably commensurate with the type and size of the proposed project, proximity to critical areas, and degree of environmental degradation.)

(c) The application shall also include 10 copies (including one of reproducible quality—a mylar copy is not required) of a site plan, on 8½ inch by 11 inch paper if appropriate (if larger than 8½ inch by 11 inch, all copies shall be folded) indicating the following:

1. All existing structures and related appurtenances on the lot and immediately adjacent lots;

2. Distances and dimensions of areas, structures and lots, including freshwater wetlands, State open waters, transition areas, limits of inundation for the 100 year flood for non-delineated streams or flood hazard area flood for delineated streams (if applicable), mean high water line (if appropriate), upland property, roads and utility lines;

3. A complete delineation of the wetlands boundary(ies) in accordance with the requirements of N.J.A.C. 7:7A-8.3(a) and (b). A letter of interpretation issued by the Department may be submitted to satisfy this requirement;

4. The proposed area which will be used for the activity or discharge;

5. The general site location in relation to development in the region;

6. The scale of the plan and a north arrow; and

7. A title block for each sheet containing the following information:

i. The name of the applicant and the name or the proposed project (if any);

ii. Identification of the proposed activity;

- iii. County and municipality;
- iv. Lot and block;
- v. Number of the sheet and the total number of sheets in set; and
- vi. Preparer, and date of the drawing and all revisions.

(d) The application shall also include color photographs of sufficient quality and quantity to show the project site including:

- 1. Location of known freshwater wetlands and State open waters; and
- 2. Proposed location of the regulated activity.

(e) If the proposed project involves the discharge of dredged or fill material, the application shall include a cross-sectional view of the proposed project showing the following:

- 1. Water elevations;
- 2. Water depths at waterward face of proposed work, or if dredging is proposed, showing dredging grade;
- 3. Cross-section of fill;
- 4. Elevation of spoil areas;
- 5. Location of wetlands; and
- 6. Delineation of disposal site.

(f) A mitigation plan meeting the requirements of N.J.A.C. 7:7A-14.4 may be submitted with the permit application. The Department requires an approved mitigation plan as a condition precedent to engaging in a regulated activity.

Amended by R.1992 d.117, effective March 16, 1992.
See: 23 N.J.R. 338(a), 24 N.J.R. 975(b).

Changes initiated to create a program that is as stringent as that of the U.S. Army Corps of Engineers under the Clean Water Act (33 U.S.C. 1251 et seq.) in order to secure the assumption of the permit jurisdiction.

7:7A-11.2 Recordkeeping

Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under N.J.A.C. 7:7A-11.1 for a period of at least three years from the date the application is submitted to the Department.

7:7A-11.3 Signatories to permit applications and reports

- (a) All permit applications shall be signed as follows:
 - 1. For a corporation, by a principal executive officer of at least the level of vice president;
 - 2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;

3. For a municipality, State, Federal, or other public agency, by either a principal executive officer or ranking elected official; or

4. By individual owners of record.

(b) All reports required by permits and other information requested by the Department shall be signed by a person described in (a) above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- 1. The authorization is made in writing by a person described in (a) above;
- 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. A duly authorized representative may, thus, be either a named individual or any individual occupying a named position; and
- 3. The written authorization is submitted with the application to the Department.

(c) If an authorization under (b) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) above must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(d) Any person signing a document under (a) or (b) above shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Amended by R.1992 d.117, effective March 16, 1992.
See: 23 N.J.R. 338(a), 24 N.J.R. 975(b).
Punctuation only.

7:7A-11.4 Confidentiality

(a) Any information submitted to the Department pursuant to these regulations may be claimed as confidential by the submitter at the time of submittal.

(b) Claims of confidentiality for the following information will be denied:

- 1. The name and address of any permit applicant or permittee;