Routine Program Change - Summary of rule changes and significance of change
Coastal Zone Management rules -Subchapter 8
Resource rules
February 6, 2006

The rule changes described in detail below do not change the program approvability area of boundaries, and with the exception of the changes to the Public access to the waterfront rule, do not change special management areas. While the rule changes may affect the program approvability areas of uses subject to management, authorities and organization or consideration of the national interest, these changes are not substantial for the reasons set forth below.

Rule Citation	Rule Change	Significance of Change
7:7E-8.1 Purpose and scope	Changes made to further refine the purpose of the subchapter	The change to this rule does not substantially change the uses subject to management or consideration of the national interest as the change made merely refines the purpose of the subchapter. The resource rules continue to evaluate development in terms of its effects on various resources of the built environment and natural environment of the coastal zone, both at the proposed site and its surrounding region.
	Deleted paragraph listing other state and local agency standards that also apply to developments	The change to this rule deleting the listing of other state and local standards that could apply to a proposed development site does not substantially change the uses subject to management or consideration of the national interest. Because any proposed development in New Jersey must comply with all applicable local, State and Federal requirements, this paragraph was not necessary.
7:7E-8.4 Surface water use	Changes to terminology and punctuation	Changes in terminology and punctuation for the purposes of consistency throughout the Chapter are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
7:7E-8.7 Stormwater management	Replaces the current standards with a cross-reference to the Stormwater Management rules, N.J.A.C. 7:8	The change to this rule replacing the existing CZM rule Stormwater rule with a cross-reference to the Stormwater Management rules, N.J.A.C. 7:8 is not a substantial change to the uses subject to management or the national interest. In accordance with Section 1456 of the Coastal Zone Management Act, requirements of the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, shall be incorporated in any program developed pursuant to the CZMA and shall be the water pollution control and air pollution control requirements applicable to such program. As set forth in the accompanying document, "Incorporation of Enforceable State Coastal Nonpoint Policies Developed Pursuant to the Federal Clean Water Act, N.J.A.C. 7:14 and 7:8 into New Jersey's Coastal Management Program" N.J.A.C. 7:8 implements EPA's Phase II Stormwater Permitting Program and therefore is incorporated into NJ Coastal Management Program. This change preserves the national interest in protecting water quality.
7:7E-8.8 Vegetation	Clarifies that the native coastal plant species be native to New Jersey	The change to this rule clarifying that the native coastal plant species be native to New Jersey does not substantially change the uses subject to management or consideration of the national interest. This change merely clarifies that the vegetation planted at a coastal development be a coastal species native to New Jersey thus promoting diversity of vegetation throughout the coastal zone.
7:7E-8.10 Air quality	Changes to punctuation and grammar	Changes in punctuation and grammar for the purposes of consistency throughout the Chapter are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
7:7E-8.11 Public access to the waterfront	Added cross-reference to the Atlantic City rule	The change adding a cross-reference to the Atlantic City rule does not substantially change the uses subject to management, special management areas or consideration of the national interest. The cross-reference to the Atlantic City rule will reinforce that development described in the Atlantic City rule shall also comply with the specific public access requirements of the Atlantic City rule. This change preserves consideration of the national interest in promoting, maintaining and enhancing public access to the waterfront.

Rule Citation	Rule Change	Significance of Change
7:7E-8.11 Public access to the waterfront (continued)	Updated cross-references and terminology	Changes in terminology and the updating of cross-references for the purposes of consistency throughout the Chapter are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
	Added beach nourishment projects to the listing of public projects where public access including parking is required	The change adding beach nourishment projects to the existing list of public projects where public access, including parking is required does not substantially change the uses subject to management, special management areas or national interest. The Department has always required public access, including parking for public beach nourishment projects through the State Capital Spending Programs, in this case "State-Aid Agreements." The Department's Bureau of Coastal Engineering in cooperation with the US Army Corps of Engineers provides beach nourishment and re-nourishment projects. For Federal beachfill projects, the Federal government contributes 65% of the project cost while the remaining 35 % is divided into a cost share with the State contributing 75% and the local government contributing the remaining 25%. Non-Federal beachfill projects are funded through a state/local coast share with the State contributing 75% and the local government contributing 25%. The expenditure of state monies for beach nourishment carries with it a requirement for public access. Municipal and county governments must demonstrate that adequate public access, clearly defined in the agreement signed with the State (known as "State-Aid Agreement") will be provided along the area affected by the project. This requirement ensures that the public who funds the project through their taxes, is able to benefit from the beachfill. The change to this rule merely codifies the Department's longstanding requirement that public access including parking is provided. This change furthers the national interest in providing public access to the waterfront
7:7E-8.13 Buffers and compatibility of uses	Updated cross-references	The updating of cross-references for the purposes of consistency throughout the Chapter are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
7:7E-8.14 Traffic	➢Clarifies that the requirement for proposed developments provide 2 parking spaces per residential unit applies to oceanfront resort areas	The changes to this rule clarifying that the 2 parking space requirement applies to oceanfront areas does not substantially change the uses subject to management or the national interest. In these areas with high seasonal demand and often limited public transportation services, adequate on-site parking for new residential development is essential to maintain existing parking for public access to the waterfront. Elsewhere in the coastal zone there is less seasonal demand and , in more urbanized areas, more public transportation. In addition to the standard for the number of parking spaces per residential unit in oceanfront areas, and elsewhere in the coastal zone, the Department may require public parking in accordance with the Public access to the waterfront rule, N.J.A.C. 7:7E-8.11. This change furthers the national interest in providing public access to the waterfront.
	➢Provides that the Department may reduce the parking requirements for senior citizen housing located within oceanfront resort areas ➢Excludes assisted living and nursing home facilities located within the oceanfront resort area from the 2 space per dwelling unit parking requirement	The rule changes providing the Department with the ability to reduce the 2 parking space per residential unit requirement for senior citizen housing developments and eliminating it for nursing homes and assisted living facilities located within oceanfront areas do not substantially change the uses subject to management or national interest. The Department's ability to reduce the parking requirement for proposed senior citizen housing is dependent upon the applicant demonstrating that the parking needs of the proposed development are less than 2 spaces per unit. Documentation demonstrating this may include information such as income level restrictions, number of bedrooms per residential unit, and information on any transportation system proposed by the facility for residents. Because the parking demand for nursing homes and assisted living facilities is low due to the nature of their residents, the 2 parking space per residential unit for these facilities located in the oceanfront area does not apply. This change continues to preserve the public's ability to access the waterfront.

Rule Citation	Rule Change	Significance of Change
7:7E-8.22 Solid and Hazardous waste (new)	Requires coastal development conform with all applicable State and Federal regulations, standards and guidelines for the handling and disposal of solid and hazardous waste	The addition of this new rule does not substantially change the uses subject to management or national interest. The CZM rules prior to this change had specific resource rules that address the protection of air and water (ie. Air quality rule, N.J.A.C. 7:7E-8.10 and Water quality rule, N.J.A.C. 7:7E-8.4), but did not have a comparable rule that addressed the effects of development on land. This rule defines solid and hazardous waste and provides that coastal development must conform with all applicable Federal and State regulations, standards and guidelines for the handling and disposal of solid and hazardous waste. Since any proposed development in the State is required to meet all applicable Federal and State requirements, this rule does not change the uses subject to management. This rule further the national interest in protecting public health, enhancing the environment and enhancing the quality if life for the citizens of the State of New Jersey and its visitors. The Coastal Management Program had a solid waste rule until 1990, when it was deleted after passage of the Source Separation and Recycling Act because the Act made the policy mandatory on a Statewide basis. In 2003, the Department decided to re-establish a rule addressing solid waste in order to make it clear that these laws apply and that the New Jersey Coastal Management Program encompasses all media, that is land, air and water. Further, in accordance with N.J.A.C. 7:7E-1.2(h), the solid waste and hazardous waste programs are part of New Jersey's approved Coastal Management Program. Finally, the CAFRA findings which have been part of the New Jersey Coastal Management Program since 1978 require that prior to the issuance of a CAFRA permit, the Department must determine that the development provides for the collection and disposal of litter, recyclable and solid waste in a manner as to minimize adverse environmental effects and the threat to the public health, safety and welfare.

Rule text - Subchapter 8

February 6, 2006

Changes to existing rule text approved by OCRM are shown as follows:
Additions indicated in **boldface**; and
Deletions indicated in **[**~~bracketed strikethrough~~**].**

7:7E-8.1 Purpose and scope

Changes to existing text as approved by OCRM

[~~(a) The third step in the screening process of the Rules on Coastal Zone Management involves a review of a proposed development~~**]** **In addition to satisfying the location and use rules, a proposed development must satisfy the requirements of this Subchapter. This subchapter contains the standards the Department utilizes to analyze the proposed development** in terms of its effects on various resources of the built and natural environment of the coastal zone, both at the proposed site as well as in its surrounding region. **[**~~These rules serve as standards to which proposed development must adhere.~~**]**

[~~(b) In addition to the standards addressed in this subchapter, proposed development must also adhere to applicable site development standards administered by other State and local agencies. These include, but are not limited to, standards adopted by local Soil Conservation Districts or municipalities pursuant to the Soil and Sediment Control Act (N.J.S.A. 4:24-39 et seq.); Barrier Free Design Requirements promulgated by the New Jersey Department of Community Affairs pursuant to N.J.S.A. 52:32.1 et seq. and N.J.S.A. 52:27D-123 and N.J.A.C. 5:23-3.2 and 5:23-3.14, the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.; the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq. and its implementing regulations set forth at N.J.A.C. 7:7A.~~**]**

New rule text subject to RPC

In addition to satisfying the location and use rules, a proposed development must satisfy the requirements of this Subchapter. This subchapter contains the standards the Department utilizes to analyze the proposed development in terms of its effects on various resources of the built and natural environment of the coastal zone, both at the proposed site as well as in its surrounding region.

7:7E-8.5 Surface water use

Changes to existing text as approved by OCRM

7:7E-8.5 Surface **[**~~Water Use~~**]** **water use**

(a) (No change.)

(b) Coastal development shall demonstrate that the anticipated surface water demand of the facility will not exceed the capacity, including phased planned increases, of the local potable water supply system or reserve capacity, and that construction of the facility will not cause unacceptable surface water disturbances, such as drawdown, bottom scour, or alteration of flow patterns.

1. Coastal development shall conform with all applicable **[**~~DEP~~**] Department** and, in the Delaware River Area, Delaware River Basin Commission requirements for surface water diversions.

(c) (No change.)

New rule text subject to RPC

(a) Surface water is water in lakes, ponds, streams, rivers, bogs, wetlands, bays, and ocean that is visible on land.

(b) Coastal development shall demonstrate that the anticipated surface water demand of the facility will not exceed the capacity, including phased planned increases, of the local potable water supply system or reserve capacity, and that construction of the facility will not cause unacceptable surface water disturbances, such as drawdown, bottom scour, or alteration of flow patterns.

1. Coastal development shall conform with all applicable Department and, in the Delaware River Area, Delaware River Basin Commission requirements for surface water diversions.

(c) Rationale:

7:7E-8.7 Stormwater management

Changes to existing text as approved by OCRM

[~~(a) Stormwater runoff is the flow of water on the surface of the ground, resulting from precipitation.~~

(b) Coastal development shall employ a site design which, to the extent feasible, minimizes the amount of impervious coverage on a project site. In addition, the development shall use the best available technology to minimize the amount of stormwater generated, minimize the rate and volume of off-site stormwater runoff, maintain existing on-site infiltration, simulate natural drainage systems and minimize the discharge of pollutants to ground or surface waters. Consistent with the provisions of the Stormwater Management rule, the overall goal of the post-construction stormwater management system design shall be the reduction from the predevelopment level of total suspended solids (TSS) and soluble contaminants in the stormwater.

1. Non-structural management practices, including, but not limited to, cluster land use development, minimum site disturbance, open space acquisition, use of sheet flow from streets and parking areas, and the protection of wetlands, steep slopes and vegetation shall be incorporated into project designs. These non-structural management practices shall be utilized, unless it is demonstrated that these practices are not feasible, from an engineering perspective, on a particular site.

2. In determining the appropriate stormwater management system design for a particular project, the existing physical site conditions must be carefully considered. Slopes, depth to seasonal high water table, soil type and texture, watershed area, and property areas are all critical to the selection of a suitable stormwater management technique or combination of techniques.

(c) Standards relevant to stormwater management system design are as follows:

1. All stormwater management systems shall be designed in accordance with this section, and shall be consistent with the Standards for Soil Erosion and Sediment Control in New Jersey (N.J.A.C. 2:90). The use of control techniques not specifically listed in this section will be evaluated on a case-by-case basis, and may be permitted in conjunction with the techniques discussed in this section. Alternative techniques may be acceptable, provided that it can be demonstrated that they satisfy the design standards of this section. Complete justification for selection of a particular stormwater management technique, including the engineering basis for exclusion of Department's preferred techniques, shall be provided as part of a complete permit application submission.

2. The following apply to development proposed in tidal areas:

i. The construction of stormwater outfalls into tidal waters may require the incorporation of a tide check or similar valve depending on the physical conditions of the site, including, but not limited to, land elevation, drainage area, bulkhead elevation, tidal elevation and 100-year flood elevation.

ii. Because tidal flooding is the result of higher than normal tides, the 100-year tidal flood elevation is not affected by development. Therefore, development activities that are located along or adjacent to tidal water bodies and segments of tidal water bodies, as specified below, are not required to comply with the flood control requirements of (c)3 below. These affected tidal waters include:

(1) Atlantic Ocean;

(2) All water bodies named on the U.S. Geological Survey 7.5' topographic maps as "bays," "canals," "coves," "guts," "harbors," "inlets," "sounds," "thorofares," and "channels," except for the portion of the Delaware River near Camden called "Back Channel";

(3) All man-made lagoons and canals discharging into the water bodies listed in (c)2ii(2) above;

(4) All sections of the "Intracoastal Waterway";

(5) Arthur Kill (entire reach); Hackensack River (Newark Bay to the Pulaski Skyway); Hudson River; Manasquan River (Atlantic Ocean to Route 70); Metedeconk River (Barnegat Bay to Route 70); Navesink River (Shrewsbury River to Coopers Bridge); Passaic River (Newark Bay to the Pulaski Skyway); Raritan River (Raritan Bay to the New Jersey Turnpike); Shark River (Atlantic Ocean to confluence with Laurel Gully Brook; Shrewsbury River (Sandy Hook Bay to Seven Bridge Road); Waretown Creek (Atlantic Ocean to Route 9); Whale Brook (Raritan Bay to Route 35); Wreck Pond (Atlantic Ocean to Route 71); and

(6) Along watercourses not specifically identified in (c)2ii(1) through (5) above, that flow into tidal water bodies listed above, the reach between the mouth and either the first bridge or culvert upstream or the point upstream where the regulatory flood (as per N.J.A.C. 7:13) exceeds the 100-year tidal elevation, whichever is closest to the mouth.

3. The following apply to flood control design:

i. If a regional stormwater management plan has been developed for the watershed, the applicant shall meet the flood control requirement of the Stormwater Management rule by conforming to the regional management plan. If no regional stormwater management plan has been developed then the applicant shall design the stormwater system so that the post-development peak runoff rate for the two year storm event is 50 percent of the pre-development peak runoff rate and the post-development peak runoff rates for the 10- and 100-year storm events are 75 percent of the pre-development peak runoff rate.

ii. The design storms used to achieve the required level of site runoff control described in (c)3i above shall be defined as either the 24-hour storm using the rainfall distribution recommended by the U.S. Department of Agriculture Soil Conservation Service, or as the total rainfall uniformly distributed throughout the critical storm duration as determined by the Modified Rational Method (T.J. Mulvaney, 1851, On the Use of Self-registering Rain and Flood Gages in Making

Observations of the Relations of Rainfall and Flood Discharges in a Given Catchment, Proc. Inst. Civil Engineering, Ireland, vol. 4, pp. 18-31). A 20 acre drainage area limit shall be used for the Modified Rational Method unless otherwise approved by the Department.
iii. For the purposes of computing runoff, all lands in the site shall be assumed, prior to development, to be in good hydrologic condition if the lands are pastures, lawns or parks, with good cover if the lands are woods, or with conservation treatment if the land is cultivated, regardless of conditions existing at the time of computation. For lands to be considered cultivated, they must have been used for such purposes without interruption for a period of at least 5 years prior to the time of computation. If such use has not occurred or cannot be satisfactorily documented, woods shall be assumed to be the predeveloped land condition. In computing pre-development runoff, all significant land features, such as ponds, depressions or hedgerows which increase the ponding factors shall be accounted for.
iv. Plans and calculations shall be provided to show that the discharge will not cause erosion along the flow path between the outfall and the receiving waterbody. All stormwater discharge paths shall be stabilized in accordance with the criteria in N.J.A.C. 2.90, Standards for Soil Erosion and Sediment Control in New Jersey.
4. The following apply to water quality control design:
i. The water quality control standard shall be the maximum feasible reduction of the total suspended solids (TSS) loading after construction has been completed, up to and including the water quality design storm. At a minimum, post-construction loadings of TSS shall match the predevelopment loadings of TSS for the water quality design storm.

(d) Stormwater management is vital to protecting and improving New Jersey's water quality and control techniques, and information about their effectiveness in different situations is evolving. The Department has prepared the following hierarchy of the stormwater management techniques based on its experience to date. The goal of the hierarchy is to avoid the use of techniques that have not been successful in previous similar situations and to guide permit applicants toward techniques that are likely to be successful. At the same time, the Department is open to innovative proposals or additional information that may help better manage stormwater on a particular site or in a particular region. For each of the techniques identified in this rule, the Department has included conditions that shall be considered, but the Department recognizes that this is an evolving technology and will evaluate individual proposals on a case by case basis. The Land Use Regulation Program has assigned to the following stormwater management techniques a hierarchy of preferences for use in project design categorized as either "Conditionally Acceptable" or "Discouraged." If an applicant cannot make maximum use of "Conditionally Acceptable" stormwater management techniques, based on physical or engineering constraints, the Department encourages the use of a combination of techniques. If use of a particular technique on a property can be designed to meet a majority of that technique's normal requirements, then an applicant may still be required to use that stormwater management technique, if use of that technique on that property remains environmentally preferable to alternative techniques. In addition, none of the techniques listed in this section may be constructed "on-stream" unless the stormwater management system is part of a Departmental-approved regional stormwater plan.
1. Conditionally Acceptable: The following list represents the stormwater management techniques which may be incorporated into project design, subject to the specified conditions. The six "Conditionally Acceptable" techniques in this section are not listed in any order of preference, and shall be equally evaluated on a case-by-case basis.
i. The use of newly constructed wetlands is conditionally acceptable, provided that the following conditions are satisfied:
(1) The water depth in the wetlands is less than one foot (six inches is optimal), with the exception of the 25 percent area discussed at (d)1i(6) below;
(2) The perimeter of the water area shall be graded to form a 10 to 20 foot wide shallow bench for aquatic emergents, for at least half of the water area perimeter;
(3) The surface area of the wetland shall constitute about two to three percent of the total area of the contributing watershed;
(4) Wetland vegetation shall be commercial wetland plant stock (either live plants or dormant rhizomes), as opposed to transplants or seeding;
(5) At least two primary native or non-aggressive exotic wetlands species, which are hardy and rapid colonizers, shall be planted over about 30 percent of the total shallow water area. Each primary species shall be planted in three or four monospecific stands, with individual plants about two to three feet apart. Up to three secondary wetland species, that are not as aggressive in colonizing a pond, shall be randomly distributed in clumps around the perimeter of the wetlands;
(6) If a basin is exclusively designed to act as a shallow wetland, at least 25 percent of the total surface area of the inundated area shall be reserved for open water areas that are two or more feet deep, to provide habitat for waterfowl and marsh birds;
(7) The use of native fish stocks in constructed wetlands is encouraged, as a means to control mosquitos;
(8) The use of a clay liner in the system design may be required, depending on site conditions, in order to ensure adequate hydrology in the system; and

(9) The surface and drainage shall be sufficient so that the inflow of dry weather flow into the wetlands will be large enough to sustain sufficient water during dry periods and prevent stagnation.

ii. The use of wet ponds/retention basins is conditionally acceptable, provided that the following conditions are satisfied:

(1) The ratio of permanent pool or basin volume to the runoff volume for the water quality storm runoff shall be greater than three to one;

(2) The pool must be shallow enough to avoid thermal stratification, and deep enough to minimize algal blooms and resuspension of decomposing organics and other previously deposited materials;

(3) The pond shall be designed so that the inflow of dry weather flow either from the contributing drainage area or ground water base flow, into the wet pond will be large enough to sustain sufficient water during dry periods and prevent stagnation;

(4) Wet ponds shall be configured so as to promote maximum sedimentation;

(5) The use of native fish stocks in wet ponds is strongly encouraged, as a means to control mosquitos; and

(6) The use of a clay liner in the system design may be required, depending on site conditions, to ensure adequate hydrology in the system.

iii. The use of detention basins is conditionally acceptable, provided that the following conditions are satisfied:

(1) The water quality design for detention will require prolonged detention of the water quality design storm which is a one-year frequency 24-hour storm using the rainfall distribution recommended for New Jersey by the U.S. Department of Agriculture, Soil Conservation Service, or a storm of 1.25 inches of rainfall in two hours. Provisions shall be made for the water quality design storm to be retained and released so as to evacuate 90 percent or less in 18 hours in the case of residential developments, and 36 hours in the case of other developments. This is usually accomplished by a small outlet orifice at the lowest level of detention storage, with a large outlet or outlets above the level sufficient to control the water quality design storm. The minimum allowable orifice diameter shall be three inches. If the above detention time requirement would result in a pipe smaller than three inches in diameter, then additional methods shall be employed to remove the TSS prior to discharge into the basin. The retention time shall be considered brim-drawdown time, and therefore begin at the time of peak storage;

(2) The bottom of the basin shall be at an elevation above the seasonal high water table. Where possible, at least three feet of vertical separation between the bottom of the basin and the seasonal high water table shall be provided to promote infiltration. If the seasonal high water table is one foot or less below the bottom of the basin, then the use of constructed wetlands or a wet pond shall be considered;

(3) Native and non-aggressive exotic vegetation for use in detention basins shall be the approved species as determined by the appropriate Soil Conservation District; and

(4) All low-flow channels shall be constructed of rip-rap, grass paver blocks or similar material that will allow for the growth of vegetation. The use of underdrains below the low flow channel will be allowed if necessary to dry out the soil to allow vehicular access for maintenance, such as tractors to cut the vegetation.

iv. The use of vegetated swales is conditionally acceptable, provided that the following conditions are satisfied:

(1) The bottom of the swale shall be above the elevation of the seasonal high water table;

(2) Swales shall be used in conjunction with other stormwater management techniques (detention basins, wet ponds, constructed wetlands, underground infiltration) as internal conveyances within a stormwater collection system, receiving only overland flow (that is, as replacements for curb and gutter flow or on highway medians);

(3) The use of vegetated swales shall be limited to sites where impervious cover is present on less than five percent of the site, unless combined with other stormwater management techniques;

(4) Swales accepting concentrated discharges from pipes at the end of the stormwater system will not be accepted for water quality treatment unless there are no other viable methods available to remove the TSS prior to discharge and the length of the swale is the maximum achievable in relation to the site conditions;

(5) The swales shall be designed to provide the maximum feasible vegetation contact time ranging from five to 20 minutes where feasible, for the water quality storm;

(6) The slope of the swale shall not be less than 0.5 percent nor greater than 5 percent;

(7) Vegetated swales shall only be used where the expected velocity of flow does not exceed 1.5 feet per second;

(8) The use of rip-rap, or other stabilization material that will allow vegetative growth, in conjunction with appropriate vegetation, may be incorporated into the design of the swale, if a stable condition using vegetation alone cannot be achieved;

(9) Vegetation for use in the swales shall include native species, of sufficient height to extend above the expected elevation of the water quality design storm in the swale and shall be coordinated with the local Soil Conservation District to determine the suitability for use on the site; and

(10) In addition to the standards in (d)2i(1) through (9) above, all swales must be designed in accordance with the "Standards for Soil Erosion and Sediment Control in New Jersey," N.J.A.C. 2:90.

v. The use of infiltration basins is conditionally acceptable, provided that the following conditions are satisfied:

(1) There shall be at least two feet of vertical separation between the bottom of the proposed infiltration basin and the seasonal high water table;

(2) The soil texture shall be sand, loamy sand or sandy loam, as defined by the U.S. Department of Agriculture;

(3) No topsoil may be placed in the basin bottoms;

(4) The basin bottom shall be scarified after the basin is formed, after which no other construction within the basin may occur;

(5) All of the water quality storm shall be stored and recharged within 72 hours of the storm; and

(6) There is an adequate back-up drainage system provided, in the event that the infiltration capacity of the infiltration basin fails.

vi. The use of perforated pipe for the purpose of underground recharge of stormwater is conditionally acceptable, provided the following conditions are satisfied:

(1) The soil texture shall be sand, loamy sand or sandy loam, as defined by the U.S. Department of Agriculture;

(2) Runoff shall be filtered through a basin and/or vegetated swale, to enhance water quality, prior to discharge into a perforated pipe system;

(3) There shall be at least three feet of vertical separation between the bottom of the perforated pipe trench and the seasonal high water table;

(4) All underground recharge pipes shall be 360 degree perforated;

(5) The required pipe size shall be determined based on the peak discharge for the required post-development design storm; and

(6) In addition to the standards set forth above, all underground infiltration systems shall be designed in accordance with the "Standards for Soil Erosion and Sediment Control in New Jersey," N.J.A.C. 2:90.

2. Discouraged: The following list represents techniques which are not likely to be approved, unless it can be clearly documented that the use of other "Conditionally Acceptable" techniques has been maximized or is infeasible for engineering reasons.

i. Underground storage is not effective and cannot be utilized as a means to provide water quality treatment of stormwater. Underground storage for the purpose of controlling stormwater volume is discouraged, but may be acceptable in limited cases, provided that the following conditions are satisfied:

(1) The use of other "Conditionally Acceptable" stormwater management techniques, as described in (d)1 above, has been maximized, or can be documented as infeasible. Complete justification for the exclusion of "Conditionally Acceptable" techniques must be provided as part of the permit application submission; and

(2) Water quality treatment shall be provided prior to stormwater discharge to the underground storage system.

ii. The use of sediment traps and oil/grease separators is generally discouraged because they have proven ineffective, but they may be acceptable in limited cases, provided that the following conditions are satisfied:

(1) The use of other "Conditionally Acceptable" techniques, as described in (d)1 above, has been maximized, or can be documented as infeasible. Complete justification for the exclusion of "Conditionally Acceptable" techniques must be provided as part of the permit application submission;

(2) The use of sediment traps and oil/grease separators shall be limited to drainage areas less than 0.1 acre in size; and

(3) For drainage areas greater than 0.1 acre in size, the use of sediment traps and oil/grease separators shall be combined with other stormwater management techniques as described in this subsection.

iii. The use of porous asphalt pavement is discouraged, due to the problems associated with continued maintenance and functioning of these types of infiltration systems. As set forth in this subparagraph, the surface of porous asphalt pavement shall be cleaned regularly to avoid becoming clogged by fine grained material. Porous pavement does not include gravel, crushed shell or paver blocks (non-grout). The use of porous pavement may be acceptable in limited cases, provided that the following conditions are satisfied:

(1) The use of other "Conditionally Acceptable" techniques, as described in (d)1 above, has been maximized, or can be documented as infeasible. Complete justification for the exclusion of "Conditionally Acceptable" techniques must be provided as part of the permit application submission;

(2) The soil texture shall be sand, loamy sand or sandy loam, as defined by the U.S. Department of Agriculture;

(3) The use of porous asphalt pavement shall be limited to light traffic areas only, such as parking areas;

(4) The areas of porous asphalt pavement shall be adequately buffered, through vegetative screening, to avoid adjacent sources of aeolian sand and silt;

~~(5) The application shall include a strict maintenance schedule, which may be required to include, but not be limited to, vacuum sweeping on a weekly basis and high pressure water washing of the pavement on a monthly basis;~~
~~(6) The paving uses no asphalt sealers; and~~
~~(7) The use of sand during periods of snow is prohibited on porous asphalt areas.~~

~~(e) The species and quantity of native or non-invasive exotic vegetation used as part of a stormwater management system design shall be consistent with the standards and specifications of the local Soil Conservation District. In general, the use of vegetation shall be limited to low maintenance native species, shall be pest resistant, and shall be drought or water tolerant, depending on the specific application. The use of native species is encouraged for all vegetated swales.~~

~~(f) Standards relevant to stormwater management system maintenance are as follows:~~
~~1. The long-term maintenance of stormwater management systems is a critical factor in the ongoing functioning of these systems. In cases where these existing systems have failed, the most common cause is inadequate maintenance of the system. Therefore, the following maintenance requirements shall be included as part of all stormwater management plans; shall be specifically identified on the site plans and in a stormwater system maintenance report for any proposed project; and, if required by the Program, shall be recorded with the deed for the property in question:~~
~~i. All information regarding the long-term maintenance of proposed stormwater management systems shall be provided as part of the initial permit application submission;~~
~~ii. The party or parties responsible for long-term maintenance of the system shall be clearly designated, and documentation of the assumption of this responsibility shall be provided as part of the permit application submission;~~
~~iii. All maintenance records shall be written, maintained and provided to the Department upon request;~~
~~iv. Maintenance of detention basins shall include, but not be limited to, the following activities:~~
~~(1) Visual inspection of all components of the stormwater management system at least twice each year;~~
~~(2) Removal of silt, soil, litter and other debris from all catch basins, inlets and drainage pipes, on a twice-yearly basis;~~
~~(3) Maintenance, including grass cutting, and replacement (if necessary) of all landscape vegetation within the basins, at least once each year;~~
~~(4) Removal of silt from within the basins at least once each year, or more frequently if noticeable buildup occurs, for disposal in an acceptable location; and~~
~~(5) The basin bottoms shall be aerated at least once each year, and shall be scraped and replanted at least once every five years, to prevent the sealing of the basin bottom by silt deposits.~~
~~v. Maintenance of constructed wetlands shall include, but not be limited to, the following:~~
~~(1) Visual inspection of all components of the system at least once every six months;~~
~~(2) Removal of silt, litter and other debris from all catch basins, inlets and drainage pipes at least once every six months, or as required;~~
~~(3) Vegetation harvesting at least once each year; and~~
~~(4) The approval of a stormwater management system which involves newly constructed wetlands on an upland site will automatically include the issuance of a Freshwater Wetlands General Permit 1 for maintenance of the wetlands, which shall be renewed by the permittee every five years.~~
~~vi. Maintenance of wet ponds/retention basins shall include, but not be limited to, annual monitoring of water quality, dissolved oxygen, vegetative growth and fish population.~~
~~vii. Maintenance of infiltration facilities shall include, but not be limited to:~~
~~(1) Annual tilling operation to maintain infiltration capacity, with revegetation as necessary; and~~
~~(2) Sediment removal shall be followed by retilling, at a time when the facility is thoroughly dry.~~
~~viii. Maintenance of swales, including, but not limited to, removal of grass clippings and leaves, shall be performed so that the facilities remain in working order.~~
~~ix. Maintenance of underground perforated pipe infiltration systems shall include, but not be limited to:~~
~~(1) Visual inspection of all system components at least twice each year;~~
~~(2) Vacuuming of all storm sewer inlets once every six months (frequency of vacuuming may be adjusted if first year maintenance records indicate that sediment and debris accumulation is insignificant; and~~
~~(3) Reverse flushing and vacuuming shall be required if system inspections indicate significant accumulation of sediment in the pipes.~~

~~(g) Rationale~~**]**

New rule text subject to RPC

If a project or activity meets the definition of “major development” at N.J.A.C. 7:8-1.2, then the project or activity shall comply with the Stormwater Management rules at N.J.A.C. 7:8.

7:7E-8.8 Vegetation

Changes to existing text as approved by OCRM

(a) **[**"**]**Vegetation**[**"**]** is the plant life or total plant cover that is found on a specific area, whether indigenous or introduced by humans.

(b) Coastal development shall preserve, to the maximum extent practicable, existing vegetation within a development site. Coastal development shall plant new vegetation, particularly appropriate **[**~~native~~**]** coastal species**[**~~,~~**] native to New Jersey** to the maximum extent practicable.

(c) (No change.)

New rule text subject to RPC

(a) Vegetation is the plant life or total plant cover that is found on a specific area, whether indigenous or introduced by humans.

(b) Coastal development shall preserve, to the maximum extent practicable, existing vegetation within a development site. Coastal development shall plant new vegetation, particularly appropriate coastal species native to New Jersey to the maximum extent practicable.

(c) Rationale

7:7E-8.10 Air Quality

Changes to existing text as approved by OCRM

(a) The protection of air resources refers to the protection from air contaminants that injure human health, welfare or property, and **[**~~to~~**] the** attainment and maintenance of State and Federal air quality goals and the prevention of degradation of current levels of air quality.

(b) (No change.)

(c) Coastal development shall be located and designed to take full advantage of existing or planned mass transportation infrastructures and shall be managed to promote mass transportational services, **[**~~as required under the Traffic Policy (N.J.A.C. 7:7E-8.14(b))~~**] in accordance with the Traffic rule, N.J.A.C. 7:7E-8.14**.

(d) (No change.)

New rule text subject to RPC

(a) The protection of air resources refers to the protection from air contaminants that injure human health, welfare or property, and the attainment and maintenance of State and Federal air quality goals and the prevention of degradation of current levels of air quality.

(b) Coastal development shall conform to all applicable State and Federal regulations, standards and guidelines and be consistent with the strategies of New Jersey's State Implementation Plan (SIP). See N.J.A.C. 7:27 and New Jersey SIP for ozone, particulate matter, sulfur dioxide, nitrogen dioxide, carbon monoxide, lead, and visibility.

(c) Coastal development shall be located and designed to take full advantage of existing or planned mass transportation infrastructures and shall be managed to promote mass transportation services, in accordance with the Traffic rule, N.J.A.C. 7:7E-8.14.

(d) Rationale

7:7E-8.11 Public access to the waterfront

Changes to existing text as approved by OCRM

(a) (No change.)

(b) Coastal development adjacent to all coastal waters, including both natural and developed waterfront areas, shall provide permanent perpendicular and linear access to the waterfront to the maximum extent practicable, including both visual and physical access. Development that limits public access and the diversity of the waterfront experiences is discouraged.

1. – 5. (No change.)

6. Public access, including parking where appropriate, shall be provided to publicly funded shore protection structures**, beaches nourished with public funds** and to waterfronts created by public projects unless such access would create a safety hazard to the user. Physical barriers or local regulations which unreasonably interfere with access to, along or across a structure **or beach** are prohibited.

7. Development **located** within the Hudson River Waterfront Special Area shall **comply**

[~~conform~~**]** with the additional requirements of **the Hudson River Waterfront rule,** N.J.A.C. 7:7E-3.48.
8. (No change.)
9. Development within the Atlantic City Special Area shall comply with the additional requirements of the Atlantic City rule at N.J.A.C. 7:7E-3.49.
10. Development elsewhere in the coastal zone shall conform with any adopted municipal, county or regional waterfront access plan, provided the plan is consistent with the **[**~~Rules on~~**]** Coastal Zone Management **rules**.
11. The Department may require some or all of the public access portion of a site to be dedicated for public use through measures such as a conservation **[**~~easement~~]restriction.

12.– 14. (No change.)

(c) – (d) (No change.)

New text subject to RPC
(a) Public access to the waterfront is the ability of all members of the community at large to pass physically and visually to, from and along the ocean shore and other waterfronts.

(b) Coastal development adjacent to all coastal waters, including both natural and developed waterfront areas, shall provide permanent perpendicular and linear access to the waterfront to the maximum extent practicable, including both visual and physical access. Development that limits public access and the diversity of the waterfront experiences is discouraged.
1. All development adjacent to water shall, to the maximum extent practicable, provide, within its site boundary, a linear waterfront strip accessible to the public. If there is a linear waterfront accessway on either side of the site and the continuation of which is not feasible within the boundaries of the site, a pathway around the site connecting to the adjacent parts, or potential parts of the waterfront path system in adjacent parcels shall be provided.
2. Municipalities that do not currently provide, or have active plans to provide, access to the water will not be eligible for Green Acres or Shore Protection funding.
3. Public access must be clearly marked, provide parking where appropriate, be designed to encourage the public to take advantage of the waterfront setting, and must be barrier free where practicable.
4. A fee for access, including parking where appropriate, to or use of publicly owned waterfront facilities shall be no greater than that which is required to operate and maintain the facility and must not discriminate between residents and non-residents except that municipalities may set a fee schedule that charges up to twice as much to non-residents for use of marinas and boat launching facilities for which local funds provided 50 percent or more of the costs.
5. All establishments, including marinas and beach clubs, which control access to tidal waters shall comply with the Law Against Discrimination, N.J.S.A. 10:5-1 et seq.
6. Public access, including parking where appropriate, shall be provided to publicly funded shore protection structures, beaches nourished with public funds and to waterfronts created by public projects unless such access would create a safety hazard to the user. Physical barriers or local regulations which unreasonably interfere with access to, along or across a structure or beach are prohibited.
7. Development located within the Hudson River Waterfront Special Area shall comply with the additional requirements of the Hudson River Waterfront rule, N.J.A.C. 7:7E-3.48.
8. Development along Raritan Bay within Monmouth County shall be consistent with the Bayshore Waterfront Access Plan (Monmouth County Planning Board and the Trust for Public Land for NJDEP, 1987).
9. Development within the Atlantic City Special Area shall comply with the additional requirements of the Atlantic City rule at N.J.A.C. 7:7E-3.49.
10. Development elsewhere in the coastal zone shall conform with any adopted municipal, county or regional waterfront access plan, provided the plan is consistent with the Coastal Zone Management rules.
11. The Department may require some or all of the public access portion of a site to be dedicated for public use through measures such as a conservation restriction.
12. Development adjacent to coastal waters shall provide fishing access within the provision of public access wherever feasible and warranted.
13. Development adjacent to coastal waters shall provide barrier free access within the provisions of public access wherever feasible and warranted by the characteristics of the access area.
14. For developments which reduce existing on-street parking that is used by the public for access to the waterfront, mitigation for the loss of these public parking areas is required at a minimum of 1:1 within the proposed development site or other location within 250 feet of the proposed project site.

(c) At sites proposed for the construction of single family or duplex residential dwellings, which are not part of a larger development, public access to the waterfront is not required as a condition of the coastal permit.

(d) Rationale

7:7E-8.13 Buffers and compatibility of uses

Changes to existing text as approved by OCRM

(a) (No change.)

(b) Development shall be compatible with adjacent land uses to the maximum extent practicable.
1. Development that is likely to adversely affect adjacent areas, particularly Special Areas **[**~~(N.J.A.C. 7:7E-3.1 through 3.48)~~**]** **N.J.A.C. 7:7E-3,** or residential or recreation uses, is prohibited unless the impact is mitigated by an adequate buffer. The purpose, width and type of the required buffer shall vary depending upon the type and degree of impact and the type of adjacent area to be affected by the development, and shall be determined on a case-by-case basis.
2. The **[**~~rule regarding~~**]** **standards for** wetland buffers **[**~~is~~**]** **are** found at N.J.A.C. 7:7E-3.28.
3. (No change.)

New rule text subject to RPC

(a) Buffers are natural or man-made areas, structures, or objects that serve to separate distinct uses or areas. Compatibility of uses is the ability for uses to exist together without aesthetic or functional conflicts.

(b) Development shall be compatible with adjacent land uses to the maximum extent practicable.
1. Development that is likely to adversely affect adjacent areas, particularly Special Areas N.J.A.C. 7:7E-3, or residential or recreation uses, is prohibited unless the impact is mitigated by an adequate buffer. The purpose, width and type of the required buffer shall vary depending upon the type and degree of impact and the type of adjacent area to be affected by the development, and shall be determined on a case-by-case basis.
2. The standards for wetland buffers are found at N.J.A.C. 7:7E-3.28.
3. The following apply to buffer treatment:
i. All buffer areas shall be planted with appropriate vegetative species, either through primary planting or supplemental planting. This landscaping shall include use of mixed, native vegetative species, with sufficient size and density to create a solid visual screen within five years from the date of planting.
ii. Buffer areas which are forested may require supplemental vegetative plantings to ensure that acceptable visual and physical separation is achieved.
iii. Buffer areas which are non-forested will require dense vegetative plantings with mixed evergreen and deciduous trees and shrubs. Evergreens must be at least eight feet tall at time of planting; deciduous trees must be at least three inches caliper, balled and burlapped; shrubs must be at least three to four feet in height.

(c) Rationale

7:7E-Traffic

Changes to existing text as approved by OCRM

(a) – (d) (No change.)

(e) Coastal development **located in municipalities which border the Atlantic Ocean, except as excluded under (e) 1, 2 or 3 below**, shall provide sufficient on-site and/or off-site parking for its own use at a ration of two spaces per residential unit. In general, on street parking spaces along public roads cannot be credited as part of off-site parking provided for a project. All off-site parking facilities must be located either in areas within reasonable walking distance to the development or areas identified by any local or regional transportation plans as suitable locations. All off-site parking facilities must also comply with N.J.A.C. 7:7E-7.5(d), the **[**~~Parking Facility~~**]** **parking facility** rule, where applicable.

1. The non-oceanfront portions of the following municipalities which border the Atlantic Ocean are excluded from the parking requirement at (e) above:

i. Neptune Township, Monmouth County: Those portions of this municipality which are west of State Highway 71;

ii. Brick, Dover and Berkeley Townships, Ocean County: Those portions of these municipalities which are not located between Barnegat Bay and the Atlantic Ocean;

iii. Upper Township, Cape May County: Those portions of this municipality which are not located between Whale Creek and the Atlantic Ocean and/or Strathmere Bay and the Atlantic Ocean; and

iv. Lower Township, Cape May County: Those portions of this municipality which are not between Lower Thorofare and the Atlantic Ocean and/or Jarvis Sound and the Atlantic Ocean;

2. The Department shall reduce the parking requirement for developments restricted to senior citizen housing that is, restricted to persons at least 62 years of age or those persons meeting the definition of "senior citizen tenant" pursuant to the Senior

Citizens and Disabled Protected Tenancy Act, N.J.S.A. 2A:18-61, upon documentation that the paring needs of the development are less than two spaces per unit; or
3. Nursing homes and assisted living facilities are excluded from the parking requirement at (e) above.

(f) (No change.)

New rule text subject to RPC
(a) Traffic is the movement of vehicles, pedestrians or ships along a route.

(b) Coastal development shall be designed, located and operated in a manner to cause the least possible disturbance to traffic systems.
1. Alternative means of transportation, that is, public and private mass transportation facilities and services, shall be considered and, where feasible, incorporated into the design and management of a proposed development, to reduce the number of individual vehicle trips generated as a result of the facility. Examples of alternative means of transportation include: van pooling, staggered working hours and installation of ancillary public transportation facilities such as bus shelters.

(c) When the level of service of traffic systems is disturbed b7y approved development, the necessary design modifications or funding contribution toward an area wide traffic improvement shall be prepared and implemented in conjunction with the coastal development, the satisfaction of the New Jersey Department of Transportation and any regional agencies.

(d) Any development that causes a location on a roadway to operate in excess of capacity Level D is discouraged. A developer shall undertake mitigation or other corrective measures as may be necessary so that the traffic levels at any affected intersection remain at capacity Level D or better. A developer may, by incorporating design modification or by contributing to the cost of traffic improvements, be able to address traffic problems resulting from the development, in which case development would be conditionally acceptable. Determinations of traffic levels which will be generated will be made by the New Jersey Department of Transportation.

(e) Coastal development located in municipalities which border the Atlantic Ocean, except as excluded under (e) 1, 2 or 3 below, shall provide sufficient on-site and/or off-site parking for its own use at a ration of two spaces per residential unit. In general, on street parking spaces along public roads cannot be credited as part of off-site parking provided for a project. All off-site parking facilities must be located either in areas within reasonable walking distance to the development or areas identified by any local or regional transportation plans as suitable locations. All off-site parking facilities must also comply with N.J.A.C. 7:7E-7.5(d), the parking facility rule, where applicable.
1. The non-oceanfront portions of the following municipalities which border the Atlantic Ocean are excluded from the parking requirement at (e) above:
i. Neptune Township, Monmouth County: Those portions of this municipality which are west of State Highway 71;
ii. Brick, Dover and Berkeley Townships, Ocean County: Those portions of these municipalities which are not located between Barnegat Bay and the Atlantic Ocean;
iii. Upper Township, Cape May County: Those portions of this municipality which are not located between Whale Creek and the Atlantic Ocean and/or Strathmere Bay and the Atlantic Ocean; and

iv. Lower Township, Cape May County: Those portions of this municipality which are not between Lower Thorofare and the Atlantic Ocean and/or Jarvis Sound and the Atlantic Ocean;
2. The department shall reduce the parking requirement for developments restricted to senior citizen housing that is, restricted to persons at least 62 years of age or those persons meeting the definition of “senior citizen tenant” pursuant to the Senior Citizens and Disabled Protected Tenancy Act, N.J.S.A. 2A:18-61, upon documentation that the paring needs of the development are less than two spaces per unit; or
3. Nursing homes and assisted living facilities are excluded from the parking requirement at (e) above.

(f) Rationale

7:7E-8.22 Solid and hazardous waste
New rule text subject to RPC
(a) Solid waste means any garbage, refuse, sludge or other waste material, including solid, liquid, semi-solid or contained gaseous material. A material is a solid waste if it is "disposed of" by being discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into ground or surface waters. Solid waste becomes a hazardous waste when it exhibits any of the characteristics which are specified in the Federal Regulations on Identification and

Listing of Hazardous Waste (40 C.F.R. 261). The general characteristics of hazardous waste include, but are not limited to, characteristics of ignitibility, characteristics of corrosivity, characteristics of reactivity and characteristics of toxicity.

1. Solid waste shall not include the following:

i. Source separated food waste collected by livestock producers approved by the State's Department of Agriculture who collect, prepare and feed such wastes to livestock on their own farms, or recyclable materials that are exempt from regulation pursuant to N.J.A.C. 7:26A;

ii. Materials approved for beneficial use or categorically approved for beneficial use pursuant to N.J.A.C. 7:26;

iii. Spent sulfuric acid which is used to produce virgin sulfuric acid, provided at least 75 percent of the amount accumulated is recycled in one year;

(b) Coastal development shall conform with all applicable State and Federal regulations, standards and guidelines for the handling and disposal of solid and hazardous wastes, including the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Solid Waste Management rules, N.J.A.C. 7:26, the Recycling rules, N.J.A.C. 7:26A, and the Hazardous Waste rules, N.J.A.C. 7:26G.

(c) Rationale