

Section V. Coastal Permit Program Rules, N.J.A.C. 7:7

In recognition of the benefits of renewable energy including wind and solar energy, the Department has adopted regulatory amendments which facilitate the installation of solar panels and wind turbines in the coastal zone by specifying when these facilities may be constructed without a Department permit and by providing permits-by-rule and general permits, which eliminate or reduce potential time and submission requirements, respectively.

Wind energy facilities are a new use in New Jersey's coastal zone. Given that the coastal area of New Jersey is part of the globally significant migratory corridor as well as critical habitat to numerous resident species, the Department must proceed cautiously. Therefore, the Department took a tiered approach to wind turbine development on land with wind turbines having the lowest potential impact qualifying for authorization under a permit-by-rule and the level of Departmental review increasing as the potential impacts associated with the location, height and rotor swept area increase.

The Coastal Permit Program rules establish the procedures by which the Department reviews permit applications and appeals from permit decisions under CAFRA, the Waterfront Development Law and Wetlands Act of 1970. These rules also contain the permits-by-rule and coastal general permits. The authority for the Coastal Permit Program rules is founded in the following statutes:

- **N.J.S.A. 12:5-3, Waterfront Development Law:** This Law authorizes the Department to regulate the construction or alteration of a dock, wharf, pier, bulkhead, bridge, pipeline, cable or other similar development on or adjacent to tidal waterways throughout the state. Outside of the CAFRA area and Hackensack Meadowlands District, the Law applies in upland areas adjacent to tidal waters extending from the mean high water line to the first paved public road, railroad or surveyable property line. Upland jurisdiction extends from the mean high water line landward a minimum of 100 feet and not exceeding 500 feet. Within this area, construction, reconstruction, alteration, expansion or enlargement of any structure, or the excavation or filling of any area are subject to this Law;
- **N.J.S.A. 13:9A-1 et seq., Wetlands Act of 1970:** This Act authorizes the Department to regulate activities on coastal wetlands that have been delineated and mapped by the Department. Examples of regulated activities include excavation, dredging, fill or placement of a structure on a mapped coastal wetland;
- **N.J.S.A. 13:19-1 et seq., Coastal Area Facility Review Act (CAFRA):** CAFRA applies to projects near coastal waters in the southern part of the State. The CAFRA area begins where the Cheesecake Creek enters Raritan Bay in Old Bridge, Middlesex County. It extends south along the coast around Cape May, and then north along the Delaware Bay ending at Kilcohook National Wildlife Refuge in Salem County. The inland limit of the CAFRA area is an irregular line

that follows public roads, railroad tracks, and other features. The width of the CAFRA area varies from a few thousand feet to nearly 17 miles. The law divides the CAFRA area into zones, and regulates different types and sizes of development in each zone. Regulated activities within the CAFRA area include a wide variety of residential, commercial, industrial or public development such as construction, relocation, and enlargement of buildings and structures; and associated work such as excavation, grading, site preparation and the installation of shore protection structures;

- **N.J.S.A. 13:1D-9, Powers of the Department:** This statute provides that the Department shall formulate comprehensive policies for the conservation of the natural resources of the State, the promotion of environmental protection and the prevention of pollution of the environment of the State; and
- **N.J.S.A. 13:1D-29 et seq., Ninety-Day Construction Law:** This Chapter establishes application submission requirements, public notice requirements, fees and review procedures for permit applications submitted to the Department under the Waterfront Development Law, N.J.S.A. 12:5-3; Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq.; Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq. and Flood Hazard Area Control Act, N.J.S.A. 58:16A -1 et seq. as well as sewer extensions under the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

Table B, Routine Program Change, Coastal Program Permit rules, identifies the changes to the rules and provides an analysis describing the changes and why they are not significant changes to New Jersey's approved CMP. These changes do not change the program approvability area of boundaries nor do they change special management areas. While the 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 described in the analysis portion of Table B. A copy of the rule text subject to the Routine Program Change is included in this submission.