



**State of New Jersey  
Department of Environmental Protection**

Revised: May 2018

Website: [www.nj.gov/dep/landuse](http://www.nj.gov/dep/landuse)



**FRESHWATER WETLANDS PROTECTION ACT RULES  
APPLICATION CHECKLIST**

**Transition area waiver- Hardship transition area waiver**

CALL NJDEP AT (609) 777-0454 IF YOU HAVE ANY QUESTIONS

To apply for a transition area waiver, please submit the information below to:

**Postal Mailing Address**

NJ Department of Environmental Protection  
Division of Land Use Regulation  
P.O. Box 420, Code 501-02A  
Trenton, New Jersey 08625-0420  
**Attn: Application Support**

**Street Address (Courier & Hand Carry Only)**

NJ Department of Environmental Protection  
Division of Land Use Regulation  
501 East State Street  
Station Plaza 5, 2<sup>nd</sup> Floor  
Trenton, New Jersey, 08609  
**Attn: Application Support**

**Please note: If you apply for a letter of interpretation and a transition area waiver at the same time, the application requirements may be combined. For example, an application for a letter of interpretation and an individual permit require three sets of site plans. Rather than submitting six sets of site plans, three sets containing the information required by both checklists may be submitted.**

1. Completed application form;

2. Documentation that notice of the application has been provided in accordance with N.J.A.C. 7:7A-17, as follows:

Notice to municipal clerk (N.J.A.C. 7:7A-17.3(a))

A copy of the entire application, as submitted to the Department, must be provided to the municipal clerk in each municipality in which the site is located.

i. Documentation of compliance with this requirement shall consist of a copy of the certified United States Postal Service white mailing receipt, or other written receipt, for each copy of the application sent.

Notice to governmental entities and property owners (N.J.A.C. 7:7A-17.3(b) and (c))

A brief description of the proposed project, a legible copy of the site plan, and the form notice letter described at N.J.A.C. 7:7A-17.3(e)1iii must be sent to the following recipients:

- A. The construction official of each municipality in which the site is located;
- B. The environmental commission, or other government agency with similar responsibilities, of each municipality in which the site is located;
- C. The planning board of each municipality in which the site is located;
- D. The planning board of each county in which the site is located;
- E. The local Soil Conservation District if the regulated activity or project will disturb 5,000 square feet or more of land; and
- F. Adjacent property owners:

If the application is for one of the following projects (listed at N.J.A.C 7:7A-17.3(c)1-5), notice shall be sent to all owners of real property, including easements, located within 200 feet of any proposed above-ground structure, except for any conveyance lines suspended above the ground or small utility support structures (e.g. telephone poles):

- A linear project of one-half mile or longer
- A trail or boardwalk of one-half mile or longer
- A public project on a site of 50 acres or more
- An industrial or commercial project on a site of 100 acres or more
- A project to remove sediment or debris from a channel of one-half mile or longer

For any other project, notice shall be sent to all owners of real property, including easements, located within 200 feet of the site of the proposed regulated activity.

The owners of real property, including easements, shall be those on a list that was certified by the municipality, with a date of certification no more than one year prior to the date the application is submitted.

ii. Documentation of compliance with this requirement shall consist of:

- A. A copy of the certified United States Postal Service white mailing receipt for each public notice that was mailed, or other written receipt; and
- B. A certified list of all owners of real property, including easements, located within 200 feet of the property boundary of the site (including name, mailing address, lot, and block) prepared by the municipality for each municipality in which the project is located. The date of certification of the list shall be no earlier than one year prior to the date the application is submitted to the Department.

iii. The form notice letter required under N.J.A.C. 7:7A-17.3(e)1iii shall read as follows:

*"This letter is to provide you with legal notification that an application for a transition area waiver <<has been/will be>> submitted to the New Jersey Department of Environmental Protection, Division of Land Use Regulation for the development shown on the enclosed plan(s). A brief description of the proposed project follows: <<INSERT DESCRIPTION OF THE PROPOSED PROJECT>>*

*The complete permit application package can be reviewed at either the municipal clerk's office in the municipality in which the site subject to the application is located, or by appointment at the Department'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 calendar days of receiving this letter to:*

*New Jersey Department of Environmental Protection  
Division of Land Use Regulation  
P.O. Box 420, Code 501-02A  
Trenton, New Jersey 08625  
Attn: (Municipality in which the property is located) Supervisor"*

Newspaper Notice (N.J.A.C. 7:7A-17.4)

Newspaper notice, in the form of a legal notice or display advertisement in the official newspaper of the municipality(ies) in which the project site is located, or if no official newspaper exists, in a newspaper with general circulation in the municipality(ies), is required for the following projects:

- A linear project of one-half mile or longer
- A trail or boardwalk of one-half mile or longer

- A public project on a site of 50 acres or more
- An industrial or commercial project on a site of 100 acres or more
- A project to remove sediment or debris from a channel of one-half mile or longer

If your project is not one listed above, newspaper notice is not required.

i. Documentation of newspaper notice shall consist of:

- A. A copy of the published newspaper notice; and
- B. The date and name of the newspaper in which notice was published.

ii. The newspaper notice may be either a legal notice or display advertisement and must read as follows:

*“Take Notice that an application for a transition area waiver <<has been/ will be>> submitted to the New Jersey Department of Environmental Protection, Division of Land Use Regulation for the development described below:*

*APPLICANT:*

*PROJECT NAME:*

*PROJECT DESCRIPTION:*

*PROJECT STREET ADDRESS:*

*BLOCK:            LOT:*

*MUNICIPALITY: COUNTY:*

*The complete permit application package can be reviewed at either the municipal clerk’s office in the municipality in which the site subject to the application is located, or by appointment at the Department’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 calendar days of the date of this notice to:*

*New Jersey Department of Environmental Protection  
 Division of Land Use Regulation  
 P.O. Box 420, Code 501-02A  
 501 East State Street  
 Trenton, New Jersey 08625  
 Attn: (Municipality in which the property is located) Supervisor”*

3. The appropriate application fee, as specified in N.J.A.C. 7:7A-18.1, in the form of a check (personal, bank, certified, or attorney), money order, or government purchase order made payable to “Treasurer State of New Jersey.”

4. Three sets of site plans, certified in accordance with N.J.A.C. 7:7A-16.2(j). Prior to issuance of any permit, the Department will require four to five sets of final site plans. The site plans must be signed and sealed by a New Jersey licensed professional engineer, surveyor, or architect, as appropriate, pursuant to N.J.A.C. 13:40-7.2 through 7.4 and N.J.A.C. 7:7A-16.2(h). The site plans must include the scale of the site plans, a north arrow, the name of the person who prepared the plans, date the site plans were prepared, and the applicant’s name and the block, lot, and municipality in which the site is located. In

addition, the site plans shall include the following information, both on and adjacent to the site, in accordance with N.J.A.C. 7:7A-16.7(a)4:

i. Existing features:

- A. Lot Lines and right of-way lines;
- B. Delineation of wetlands, transition areas, and State open waters;
- C. Land cover and vegetation.

ii. Proposed regulated activities:

- A. Changes in lot lines;
- B. Location and area of any transition areas that will be disturbed;
- C. Size, location, and detail of any proposed activities;
- D. Details of any planting to restore temporarily disturbed areas in accordance with N.J.A.C. 7:7A-11.8.

iii. Topography:

- A. Existing and proposed topography. All topography must reference NGVD or include the appropriate conversion factor to NGVD.

iv. Soil erosion and sediment control:

- A. Details of any proposed soil erosion and sediment control measures.

5. State plane coordinates in accordance with N.J.A.C. 7:7A-16.7(a).

- i. For a linear project, of one-half mile or longer, include State plane coordinates at the endpoints of the project and State plane coordinates for points located at 1,000-foot intervals along the entire length of the project;
- ii. For a linear project of less than one-half mile in length, include State plane coordinates at the endpoints of the project;
- iii. For all other projects, State plane coordinates at the approximate center of the site (within 50 feet of the actual center)

6. One set of color photographs depicting the existing site conditions and location of the proposed disturbance. Photographs must be mounted on 8½ -inch by 11-inch paper and accompanied by a map showing the location and direction from which each photograph was taken. Copies of photographs are acceptable provided they are color copies. Black and white copies of photographs are not acceptable.

7. Calculations and analyses:

- i. If the project is a major development as defined by N.J.A.C. 7:8-1.2, a demonstration of compliance with the requirements of the Stormwater Management Rules, N.J.A.C. 7:8.

Any calculations or analyses submitted as part of an application must include the certification set forth at N.J.A.C. 7:7A-16.2(j).

8. Location of wetlands:

- i. Documentation that a line delineation or line verification Letter of Interpretation has been issued for the site; or
- ii. All information for a line delineation or line verification Letter of Interpretation required by the appropriate checklist.

9. Endangered and threatened species; critical habitat; historic and archeological features:

- i. A copy of an NJDEP, Office of Natural Lands Management Natural Heritage Database data request response for endangered or threatened species of flora or fauna, including a Landscape Map report;
- ii. If the site is located in a municipality with the endangered plant known as swamp pink (*Helonias bullata*) (listed in Attachment C), a signed statement from the applicant certifying that the proposed activities will not result in any direct or indirect adverse impacts to swamp pink or its documented habitat;
- iii. If the site is located in a municipality with the endangered bog turtle (these municipalities are listed in Attachment D), a signed statement from the applicant, certifying that the proposed activities will not result in any direct or indirect adverse impacts to bog turtles or to their documented habitat;
- iv. If the site is located in an area designated a Wild and Scenic River, or under study for such designation, a letter from the National Park Service approving the proposed activities;
- v. If an application reflects any of the characteristics at N.J.A.C. 7:7A-19.5(I), a Phase IA historical and archaeological survey, and an architectural survey, defined at N.J.A.C. 7:7A-1.3

10. A copy of the deed and/or other legal documents pertaining to the site;

11. Additional information specific to the hardship transition area waiver, as follows:

- i. Documentation of the following:
  - A. The presence of transition areas on the site makes it impossible to build a single family dwelling on the site under the other provisions of this chapter;
  - B. The lot or lots that make up the site were created by a subdivision occurring prior to July 1, 1988;
  - C. The site has been owned continuously by the applicant since prior to July 1, 1988;
  - D. The site is not contiguous with an improved property that was owned by the applicant on July 1, 1988;
  - E. The applicant has not received a hardship transition area waiver based on these hardship criteria at any time during the five years prior to the present application for a hardship transition area waiver;
  - F. The applicant has unsuccessfully attempted to purchase adjacent properties for fair market value in order to create a developable upland;
  - G. The applicant has offered the site (including easements as shown on the tax duplicate) for sale at fair market value as determined by a fair market value appraisal, performed by a State-licensed appraiser and using a form letter provided by the Department (Attachment E), to adjacent property owners within 200 feet of the property as a whole and to land conservancies, environmental organizations, and government agencies on a list provided by the Department (Attachment F) and the offer was refused or is not reasonable, assuming a minimum beneficial economically viable use, in accordance with N.J.A.C. 7:7A-17, to alleviate the hardship;
  - H. Document(s) showing when the property as a whole, as defined at N.J.A.C. 7:7A-1.3, was acquired, the purchase price of the property as a whole and the instrument which documents the applicant's real property interest;
  - I. Document(s) showing the amount, nature, and date of any investments made to maintain and/or develop the property as a whole, other than the purchase price;
  - J. A copy of each letter that the property owner sends under g. above;

- K. All responses the property owner receives to the letters sent under g above. Each response shall be submitted to the Department within 15 calendar days after the property owner's receipt of the response;
- L. A list, certified by the municipality, of all owners of real property within 200 feet of the property as a whole, including owners of easements as shown on the tax duplicate;
- M. The written offer of sale required under g above shall be sent by certified mail and shall:
  - a. Indicate that the offer is open for a period of at least 90 calendar days;
  - b. Include a copy of a fair market value appraisal, performed by a State-licensed appraiser, that assumes that a minimum beneficial economically viable use of the property will be allowed;
  - c. Include full disclosure of the location on the property of any freshwater wetlands, transition areas, and/or State open waters.

ii. A statement indicating that the property owner has requested a hardship transition area waiver;

12. Color copies of the following maps:

- i. The tax map for the property;
- ii. A copy of the portion of the county road map showing the property location; and
- iii. A copy of the USGS quad map(s) that include the site, with the site clearly outlined to scale.