

**ENVIRONMENTAL PROTECTION  
OFFICE OF POLICY, PLANNING AND SCIENCE  
COASTAL MANAGEMENT OFFICE  
Coastal Permit Program Rules**

Adopted Amendments: N.J.A.C. 7:7-7.2

Proposed: August 4, 2008 at 40 N.J.R. 4386(b)

Adopted: by Lisa P. Jackson, Commissioner, Department of Environmental  
Protection

Filed: , **without change.**

Authority: N.J.S.A. 13:19-1 et seq.; 12:3-1 et seq. and 12:5-3

DEP Docket Number: 11-08-07/655

Effective Date:

Expiration Date: March 21, 2011

The Department is adopting amendments to the Coastal Permit Program rules, N.J.A.C. 7:7 to add a new permit-by-rule for the construction and/or installation of boat wash wastewater systems and associated infrastructure that prevent any discharge of boat wash wastewater to the waters of the State at marinas, boatyards and boat sales facilities. This new permit-by-rule, codified at N.J.A.C. 7:7-7.2(a)11, is available to any marina, boatyard or boat sales facility that installs a boat bottom wash wastewater system, including those necessary to comply with the equipment and vehicle washing provisions of the Basic Industrial Stormwater General Permit (5G2) under the NJPDES rules and those that are not subject to this general permit but that wish to voluntarily install such systems.

**Summary** of Hearing Officer's Recommendation and Agency Response: The Department held a public hearing on this proposal on September 11, 2008 at the Ocean County Administration Building in Toms River, Ocean County. Kimberly Springer, the rule manager, served as the hearing officer. Four people provided oral comments at the public hearing. After reviewing the oral and written comments received during the public

comment period, the hearing officer has recommended that the proposal be adopted as proposed.

The record of the public hearing is available for inspection in accordance with applicable law by contacting:

Department of Environmental Protection  
Office of Legal Affairs  
DEP Docket Number: 05-07-01/477  
PO Box 402  
Trenton, New Jersey 08625

This rule adoption can be viewed or downloaded from the Department's web site at <http://www.state.nj.us/dep>.

**Summary of Public Comments and Agency Responses:**

The Department accepted comments on the August 4, 2008 proposal through October 3, 2008. The following persons submitted written comments and/or made oral comments at one of the public hearings.

1. Melissa Danko, Marine Trades Association
2. Joseph DeLorenzo
3. Ed Harrison III, Baywood Marina

A summary of the comments and the Department's responses follows: The number(s) in parentheses after each comment identifies the respective commenter(s) listed above.

1. COMMENT: Protecting and improving the environment should be first and foremost, and every effort should be made to ease the permitting burden on marina owners for the betterment of the environment and future sustainability of the recreational boating industry. The proposed permit-by-rule for boat wash wastewater systems will assist marinas in their efforts to comply with the NJPDES Stormwater General Permit and help

to reduce the associated permitting costs for marinas. The commenter supports this rule and requests that the Department adopt it quickly to ensure that marinas have adequate time to meet the upcoming June 1, 2009 deadline at which time marinas must eliminate the discharge of boat bottom wash wastewater to the water of the State. (1)

2. COMMENT: Two commenters supported adoption of the proposed permit-by-rule. (2, 3)

RESPONSE TO COMMENTS 1 AND 2: The Department acknowledges these comments in support of the rule.

### **Federal Standards Statement**

Executive Order No. 27(1994) and P.L. 1995, c.65 (amending N.J.S.A. 52:14B-1 et seq.) require that State agencies that adopt, readopt, or amend State rules include a statement as to whether the rule contains any standards or requirements that exceed those imposed by Federal law. The permit-by-rule being adopted at this time does not exceed any Federal Standards or requirements under the Federal Coastal Zone Management Act or the Federal Clean Water Act as discussed below.

The Federal Coastal Zone Management Act (P.L. 92-583) was signed into law on October 27, 1972. The Act does not set specific regulatory standards for development in the coastal zone; rather it provides broad guidelines for states developing coastal management programs. The State's Coastal Management Program meet the guidelines established under the Federal Coastal Zone Management Program and the State of New Jersey has obtained approval from the National Oceanic and Atmospheric Administration to implement its program under the Federal Coastal Zone Management Act. These guidelines are found at 15 CFR Part 923. They include the basic components that must be included in a state's coastal zone management plan, but do not set forth procedures by which individual activities within a state's coastal zone are to be regulated. Therefore, the Department has concluded that the permit-by-rule being adopted at this time does not exceed these Federal standards or requirements.

In order to comply with Section 402(p) of the Federal Clean Water Act, 33 U.S.C. 1342(p), the U.S. Environmental Protection Agency (USEPA) issued rules on November 16, 1990 establishing National Pollutant Discharge Elimination System (NPDES) permit application requirements for certain stormwater discharges, including stormwater discharges associated with industrial activity (see 55 Fed. Reg. 47990, amending 40 CFR 122, 123 and 124). The Federal rules define the term "stormwater discharge associated with industrial activity", and establish requirements for submitting individual permit applications and group applications for industrial stormwater discharges to surface water. The Federal rules also allow such discharges to obtain authorization under a promulgated general permit. These rules were later amended to establish minimum notification requirements for general permits, and revised requirements for stormwater permits. A background discussion explaining the origin and basis of these Federal rules is provided in the preamble to the November 16, 1990 rules, and also in the preambles to subsequent draft and final amendments to 40 CFR 122 (see 53 Fed. Reg. 49416, 55 Fed. Reg. 47990, 56 Fed. Reg. 12098, 56 Fed. Reg. 40948, 56 Fed. Reg. 56548, 57 Fed. Reg. 11394, 57 Fed. Reg. 60444, 60 Fed. Reg. 17950, 60 Fed. Reg. 40230, 61 Fed. Reg. 65268, 63 Fed. Reg. 1535, 64 Fed. Reg. 68721, 65 Fed. Reg. 30886). The Department is the issuing authority for NPDES permits in the State of New Jersey, and issues those permits as part of the New Jersey Pollutant Discharge Elimination System (NJPDES) Program. In 1992, as part of the initial response to the USEPA stormwater discharge rules, the Department proposed and adopted amendments to the NJPDES rules, N.J.A.C. 7:14A. On October 1, 1992, as part of the rule amendments, the Department issued the Basic Industrial Stormwater General Permit No. NJ0088315, authorizing industrial stormwater discharges. In 1997, 2002 and again in 2007, the Department renewed the Stormwater General Permit. The permit-by-rule facilitates, streamlines, and simplifies the coastal permitting process for the installation of boat wash wastewater systems that are required for compliance with the Stormwater General Permit. The Department has concluded that the permit-by-rule adopted at this time does not exceed any Federal standards or requirements under the Federal Clean Water Act.

**Full text** of the proposed amendments follows (addition to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

No change from proposal.