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## **ENVIRONMENTAL PROTECTION**

### **LAND USE MANAGEMENT**

#### **DIVISION OF LAND USE REGULATION**

**Coastal Permit Program Rules, Freshwater Wetlands Protection Act Rules, and**

**Flood Hazard Area Control Act Rules**

**Application Fees**

**Proposed Amendments: N.J.A.C. 7:7-1.8, 2.1, 2.3, and 4.2; 7:7A-10.1; and 7:13-8.1, 14.1, and 15.1**

**Proposed Repeals and New Rules: N.J.A.C. 7:7-10, 7:7A-11, and 7:13-17**

Authorized By: Bob Martin, Commissioner, Department of  
Environmental Protection.

Authority: N.J.S.A. 12:5-3, 13:1D-9, 13:1D-29 et seq., 13:9A-1 et seq., 13:9B-1 et seq., 13:19-1 et seq., 58:10A-1 et seq., 58:11A-1 et seq., and 58:16A-50 et seq.

Calendar Reference: See Summary below for explanation of exception to  
calendar requirement.

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DEP Docket Number: 06-14-08

Proposal Number: PRN 2014-144

A public hearing concerning the proposal will be held on Wednesday, October 1, 2014 at 1:30 PM until the close of comments at:

NJ Department of Environmental Protection

Public Hearing Room

401 East State Street, 1st Floor

Trenton, New Jersey

Submit comments by November 1, 2014 electronically at

<http://www.nj.gov/dep/rules/comments>.

The Department of Environmental Protection (Department) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Gary J. Brower, Esq.

Attention: DEP Docket No. 06-14-08

Office of Legal Affairs

Department of Environmental Protection

401 East State Street, 7th Floor

Mail Code 401-04L

P.O. Box 402

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Trenton, New Jersey 08625-0402

The rule proposal may be viewed or downloaded from the Department's website at <http://www.nj.gov/dep/rules>.

The agency proposal follows:

### **Summary**

As the Department has provided a 60-day comment period on this proposal, the proposal is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a) 5.

The Department is proposing to amend current rules and repeal and adopt new rules concerning fees for applications for permits and determinations or approvals in the Coastal Permit Program Rules (coastal rules) at N.J.A.C. 7:7, the Freshwater Wetlands Protection Act Rules (freshwater wetlands rules) at N.J.A.C. 7:7A, and the Flood Hazard Area Control Act Rules (flood hazard rules) at N.J.A.C. 7:13. The coastal, freshwater wetlands, and flood hazard permitting programs are all administered by the Division of Land Use Regulation. The proposed amendments and new rules establish a simplified, cohesive fee structure across the three chapters of rules, and incorporate a process to adjust fees in the future for each of the three permitting programs based on their respective projected annual budgets and projected fee revenues. The fee adjustment for each program would be accomplished through publication in the New Jersey Register of a public notice of a fee report and administrative changes to the fee amounts. The proposed amendments and new rules also make uniform the fees for certain permits and

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determinations that are common to all three programs, which will enhance the Department's ability to implement electronic permitting in the future.

The Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., specifically provides for the collection of fees for the review and processing of a letter of interpretation (LOI) (see N.J.S.A. 13:9B-8.h), permit application (see N.J.S.A. 13:9B-9.a), and transition area waiver (see N.J.S.A. 13:9B-17.b). The assessment of fees for permit applications under the coastal rules and flood hazard rules is governed by the Construction Permits Law, N.J.S.A. 13:1D-29 et seq., which states that the "Commissioner shall in accordance with a fee schedule adopted as a rule or regulation establish and charge reasonable fees for the filing and review of any application for a construction permit" (see N.J.S.A. 13:1D-33). The term "construction permit" is defined in the law as applying to permits issued under certain statutes, including the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq., the Waterfront Development Law, N.J.S.A. 12:5-3, the Coastal Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq., and the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.

Under the existing rules for the respective land use permitting programs, the fees for general permits are fixed and do not vary with the complexity of the project for which authorization is sought. For more complex and/or large-scale projects that potentially have greater environmental impacts, the fees for permit or other applications are calculated using measures that are intended to reflect the additional detail the applications contain and, therefore, the additional effort the Department must expend to review those applications. Application fees for CAFRA and waterfront development individual permits vary based on the number of units in

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the development (for most residential developments) or the construction cost of the development (for most nonresidential developments). Application fees for freshwater wetlands transition area waivers, LOIs, and individual permits vary based on the area of the site or the area affected or disturbed by the activity or development. Application fees for flood hazard area individual permits vary based on the type of engineering calculations required for, or the scope of, specific project elements. Based on its examination of its costs to perform application reviews in the coastal, freshwater wetlands, and flood hazard programs, and the correspondence between those costs and the fee revenue realized under the existing fee structures in the respective rules, the Department is proposing to adjust and simplify the several measures that function as proxies for the effort the Department must expend reviewing applications to more closely align the bases for application fees across the three land use permitting programs.

As discussed below in the Economic Impact statement, the proposed amendments and new rules concerning application fees are anticipated to result in an increase in fee revenue for the coastal, freshwater wetlands, and flood hazard programs, although the revenue from the fees as adjusted will still fall short of the amount necessary to fully cover the costs to review and process applications. The Department estimates that the proposed application fees will result in additional revenue of approximately \$3 million annually, thereby decreasing the annual shortfall by the same amount. The revenue realized from the adjusted fees will help lessen the amount of general fund resources needed to make up the shortfall.

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The Department is proposing to repeal the existing coastal application fee rules at N.J.A.C. 7:7-10 and replace them with new rules, and change the subchapter heading to “Application Fees.” Where the existing fee rules are referenced elsewhere in the chapter, the Department is proposing to modify those references to cite the new rules.

The Department is proposing to delete existing N.J.A.C. 7:7-1.8(b), which provides that the Department will assess a single reduced fee for multiple permit applications if they are submitted and processed simultaneously and which cross-references calculating the applicable fee in accordance with existing N.J.A.C. 7:7-10.5(a). The intent of this provision (and, as discussed later in this Summary, others like it in the freshwater wetlands rules and flood hazard rules) was to recognize the potential efficiencies of the submittal by an applicant and review by the Department of several permit applications relating to a single project concurrently, and to create an incentive for doing so. However, the review of several applications received concurrently in fact has proven to take as much time and effort as would the review of the same applications received separately, with the result that the reduced fee for the same amount of review effort marginally increases the shortfall between fee revenues and Department costs. Accordingly, the provision for a reduced fee is proposed to be deleted, and the appropriate fee established under proposed new N.J.A.C. 7:7-10 will apply to each submitted application, whether the applications are submitted separately or concurrently.

Proposed new N.J.A.C. 7:7-10.1 establishes the fees applicable to the various types of determinations, authorizations, and permits issued by the Department under the coastal rules. As under the existing rules, no fee is imposed for jurisdictional determinations, emergency permit

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authorizations, permits-by-rule, or authorizations under the general permit for habitat creation, restoration, enhancement, and living shoreline activities.

At this time, the proposed new rules continue the existing fee payment procedures that require fees to be paid by money order, check, or government purchase order; however, the Department is developing the capability to allow permit fees to be submitted electronically as part of its overall efforts to facilitate electronic permitting. Any fee that exceeds \$1,000 may be paid in installments in accordance with the requirements of the Department's rules at N.J.A.C. 7:1L, Payment Schedule for Permit Application Fees.

The Construction Permits Law imposes a cap of \$30,000 on CAFRA and waterfront development application fees. See N.J.S.A. 13:1D-33. The statute allows the Department to charge a fee in excess of \$30,000 only if it documents its actual costs in excess of \$30,000 for reviewing and processing an application and the estimated cost of determining compliance with the permit conditions. This maximum \$30,000 fee applies to applications for CAFRA and waterfront development individual permits.

Where the development for which an application for a CAFRA or waterfront development individual permit is submitted has both residential and non-residential components, the application fee will be the sum of the individual permit application fees that apply for residential development and non-residential development.

The amounts for the coastal application fees are set forth in proposed new N.J.A.C. 7:7-10.1(g), Table A. The Department is proposing to include in Table A two categories of fees with

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the fee amount indicated as “Reserved.” These are placeholders for new fees included for these categories in the pending proposal of the recodification, amendments, repeals, and new rules consolidating in one chapter the existing Coastal Permit Program rules at N.J.A.C. 7:7 and the existing Coastal Zone Management rules at N.J.A.C. 7:7E. See 46 N.J.R. 1051(a); June 2, 2014. The fee categories proposed to be reserved are for authorizations under a general permit-by-certification and for requests to extend a general permit authorization or individual permit.

Below is a table showing the existing coastal application fees and the proposed new application fees. As noted above, the Department is proposing to adjust and simplify the application fee structure for the coastal, freshwater wetlands, and flood hazard permitting programs, including aligning the bases for the application fees.

With respect to the application fees for waterfront development individual permits, coastal wetlands individual permits, and CAFRA individual permits, the Department is proposing to base the fees on the area of site for a development located landward of the mean high water line and the area of water or wetlands disturbed for development located waterward of the mean high water line or within a coastal wetland, rather than percentage of construction costs. The Department has determined that project construction costs do not correspond as closely with review effort as does area of protected resource affected. The costs to build a project reflect variables not tied to likely environmental impacts, such as purpose of the project, design aesthetics, labor costs, and the developer’s financial resources. Larger and more complex projects that affect more area of the protected resource potentially have greater environmental impacts, and the applications for permits for such projects are by necessity more detailed and



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require more effort and resources to review. Area of the site and the area of water or wetlands disturbed are the same proxy measures of Department work effort for review of permit applications for complex or larger-scale projects in the existing, as well as in the proposed new, application fees in the freshwater wetlands rules.

**Table comparing existing and proposed coastal application fees**

<b>Exemption Letter</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
CAFRA	\$300.00	\$500.00
Waterfront Development	\$300.00	\$500.00

<b>Authorization under a general permit</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
General permit for habitat creation, restoration, enhancement, and living shoreline activities	No fee	No fee
Any other general permit	\$600.00	\$1,000

<b>CAFRA individual permit</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
One single-family home or duplex	\$1,200	\$2,000
Two residential dwelling units	\$1,200 per unit	\$3,000 per unit
Any other residential development	\$7,200 plus \$120.00 per unit	

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<ul style="list-style-type: none"> <li>Commercial, industrial, or public development on a beach or dune or located between the mean high water line, or the landward limit of a beach or dune, whichever is most landward, and a point 150 feet landward of the mean high water line, or the landward limit of a beach or dune, whichever is most landward</li> </ul>	Construction costs up to \$50,000	\$3,500 + 1.2 percent of construction costs	\$3,000 per acre of the site (or fraction thereof)
	Construction costs \$50,001 to \$100,000	\$4,100 + 2.4 percent of construction costs above \$50,000	
	Construction costs \$100,001 to \$200,000	\$5,300 + three percent of construction costs above \$100,000	
<ul style="list-style-type: none"> <li>Non-residential commercial development that straddles the regulatory zone between the first 150 feet review zone and the remainder of the CAFRA area, with less than 50 parking spaces or equivalent area</li> </ul>	Construction costs \$200,001 to \$350,000	\$8,300 + 3.6 percent of construction costs above \$200,000	
	Construction costs Greater than \$350,000	\$13,700 + 2.4 percent of construction costs above \$350,000	

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<ul style="list-style-type: none"> <li>• Commercial, industrial, or public development located beyond 150 feet of the mean high water or landward limit of a beach or dune, whichever is most landward, except for a linear development, proposed mining operation, development associated with a solid waste landfill, or public development located entirely within a publicly owned park or recreation area</li> <li>• Non-residential commercial development that straddles the regulatory zone between the first 150 feet review zone and the remainder of the CAFRA area, with 50 or more parking spaces or equivalent area</li> <li>• Public or industrial development that straddles the regulatory zone between the first 150 feet review zone and the remainder of the CAFRA area, except for a linear development, proposed mining operation, development associated with a solid waste landfill, or public development located entirely within a publicly owned park or recreation area</li> </ul>	<p>\$8,500 plus \$1,200 per acre included in the site plan</p>	
<p>Linear development</p>	<p>\$8,500 plus \$1,200</p>	

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<ul style="list-style-type: none"> <li>• Located beyond 150 feet of the mean high water or landward limit of a beach or dune</li> <li>• That straddles the regulatory zone between the first 150 feet review zone and the remainder of the CAFRA area</li> </ul>	<p>per acre to be disturbed</p>	
<p>Mining</p> <ul style="list-style-type: none"> <li>• Located beyond 150 feet of the mean high water or landward limit of a beach or dune</li> <li>• That straddles the regulatory zone between the first 150 feet review zone and the remainder of the CAFRA area</li> </ul>	<p>\$8,500 plus \$250.00 per acre to be disturbed</p>	
<p>Public development located entirely within publicly owned park or recreation area</p> <ul style="list-style-type: none"> <li>• Located beyond 150 feet of the mean high water or landward limit of a beach or dune</li> <li>• That straddles the regulatory zone between the first 150 feet review zone and the remainder of the CAFRA area</li> </ul>	<p>\$8,500 plus \$250.00 per acre to be disturbed</p>	

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<p>Solid waste landfill</p> <ul style="list-style-type: none"> <li>• Located beyond 150 feet of the mean high water or landward limit of a beach or dune</li> <li>• That straddles the regulatory zone between the first 150 feet review zone and the remainder of the CAFRA area</li> </ul>	<p>\$8,500</p>	
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Coastal wetland individual permit	Existing Fee	Proposed Fee
Residential dock associated with one single-family home or duplex	\$600.00	\$2,000
Any other development	One percent of construction costs or a minimum of \$600.00, whichever is higher	\$3,000 per acre of wetlands to be disturbed (or fraction thereof)

Waterfront development individual permit	Existing Fee	Proposed Fee
Development associated with one single-family home or duplex - waterward of the mean high water line (docks, bulkheads, etc.)	\$600.00 + 0.5 percent of construction costs	\$2,000

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		above \$10,000	
Development of one single-family home or duplex and accessory development - landward of the mean high water line		\$1,200	
Development of two residential dwelling units - landward of the mean high water line		\$1,200 per unit	\$3,000 per unit
Development of three or more residential dwelling units - landward of the mean high water line		\$7,200 plus \$120.00 per unit	
Development consisting solely of capital repairs or reconstruction with all work occurring above the mean high water elevation on piles or other support structures or occurring landward of the mean high water line or the identical structural replacement of piles or other supports in the same location		\$600.00	\$3,000 per acre of the site
<ul style="list-style-type: none"> <li>All development waterward of the mean high water</li> </ul>	Construction costs up to \$50,000	\$3,500 + 1.2 percent of construction costs	Residential: <ul style="list-style-type: none"> <li>\$3,000 per unit</li> </ul> Non-residential:
	Construction costs	\$4,100 + 2.4	

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line not listed above <ul style="list-style-type: none"> <li>• Non-residential development landward of the mean high water line</li> </ul>	\$50,001 to \$100,000	percent of construction costs above \$50,000	<ul style="list-style-type: none"> <li>• Waterward of mean high water: \$3,000 per acre of water to be disturbed (or fraction thereof)</li> <li>• Landward of mean high water: \$3,000 per acre of the site (or fraction thereof)</li> </ul>
	Construction costs \$100,001 to \$200,000	\$5,300 + three percent of construction costs above \$100,000	
	Construction costs \$200,001 to \$350,000	\$8,300 + 3.6 percent of construction costs above \$200,000	
	Construction costs Greater than \$350,000	\$13,700 + 2.4 percent of construction costs above \$350,000	

Permit modification	Existing Fee	Proposed Fee
Modification of an authorization under a general permit	\$250.00	\$500.00
Minor modification of an individual permit	\$250.00	\$500.00

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Major modification of an upland waterfront development or CAFRA individual permit	20 percent of original application fee (minimum of \$600.00 and maximum of \$12,000)	30 percent of original application fee (minimum of \$500.00)
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Review of stormwater management calculations		Existing Fee	Proposed Fee
Base fee for any major development		\$2,000	\$3,000
Review of groundwater recharge calculations (per acre of land disturbed by the project)	Up to three acres	\$500.00	\$250.00 per acre of land disturbed by the project (or fraction thereof)
	Between three and 10 acres	\$1,000	
	Between 10 and 100 acres	\$2,000	
	More than 100 acres	\$4,000	
Review of runoff quantity calculations (per acre of land disturbed by the project)	Up to three acres	\$500.00	\$250.00 per acre of land disturbed by the project (or fraction thereof)
	Between three and 10 acres	\$1,000	
	Between 10 and 100 acres	\$2,000	
	More than 100 acres	\$4,000	
Review of water quality calculations (per acre of impervious	Up to one acre	\$500.00	\$250.00 per acre of impervious surface subject to water
	Between one and three acres	\$1,000	



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surface subject to review)	Between three acres and 10 acres	\$2,000	quality review (or fraction thereof)
	More than 10 acres	\$4,000	
Project disturbs vegetation within a Special Water Resource Protection Area		\$2,000	\$2,000

Proposed new N.J.A.C. 7:7-10.2 establishes a mechanism by which the Department will, through publication in the New Jersey Register of a notice of fee report and administrative changes, adjust the application fees in the coastal rules based on budget considerations where, for an upcoming State fiscal year, the Department determines a fee increase is necessary to address a calculated fee revenue shortfall between projected costs for the permitting program and projected funds (including fee revenue that would be realized based on the existing fees and funds from sources other than application fees, such as State appropriations or Federal grants) available to cover those costs. The fee report would be posted on the Department’s website and would explain in greater detail the basis for the adjusted fees. The proposed new rule outlines the calculation for determining the adjusted fees, including the specific factors that will be considered in projecting costs and projecting available funds.

**Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A**

The Department is proposing to repeal the existing freshwater wetlands application fee rules at N.J.A.C. 7:7A-11 and replace them with new rules, and change the subchapter heading to “Application Fees.”

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N.J.A.C. 7:7A-10.1(m) specifying the application requirements when a project requires more than one approval from the Division of Land Use Regulation, is proposed to be amended to delete reference at N.J.A.C. 7:7A-10.1(m)2 to the submittal of the application fee for “multiple approvals” since, for the reasons discussed previously with regard to the coastal application fees, the provision in the existing freshwater wetlands fee rules at N.J.A.C. 7:7A-11.1(d) for a reduced fee where multiple applications are submitted simultaneously is not continued in proposed new N.J.A.C. 7:7A-11.

Proposed new N.J.A.C. 7:7A-11.1 establishes the fees applicable to the various types of determinations, authorizations, and permits issued by the Department under the freshwater wetlands rules. As under the existing rules, no fee is imposed where the applicant is an agency of the State, and no fee is imposed for emergency permits or authorizations under three particular general permits (general permit 16 for habitat creation and enhancement; general permit 17 for trails and boardwalks for activities on publicly owned land; and general permit 25 for malfunctioning individual subsurface sewage disposal (septic) systems).

As explained previously with respect to the coastal application fee rules, the existing fee payment procedures are continued in the new freshwater wetlands application fee rules, while the Department develops the capability to accept fees electronically. The provision regarding the ability to pay any fee that exceeds \$1,000 in installments in accordance with the requirements of the Department’s rules at N.J.A.C. 7:1L, Payment Schedule for Permit Application Fees, is likewise continued in the new fee rules.

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Also continued in the new freshwater wetlands application fee rules are provisions regarding the refundability of an application fee up to the point an application is declared administratively complete, and the crediting of an application fee where the Department denies an application or the applicant withdraws an application, and the applicant submits a new application for a revised project on the same site within one year. Finally, the provision imposing a fee of \$1,000 for each additional site visit where an applicant's act or omission necessitates such visit(s) is continued in the new freshwater wetlands application fee rules.

The amounts for the freshwater wetlands application fees are set forth in proposed new N.J.A.C. 7:7A-10.1(g), Table A. Below is a table showing the existing freshwater wetlands application fees and the proposed new application fees.

**Table comparing existing and proposed freshwater wetlands application fees**

<b>General</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
Applications submitted by a State agency	No fee	No fee
Exemption letter	\$240.00	\$500.00

<b>Letter of interpretation</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
Presence/absence – whole site	\$240.00	\$1,000
Presence/absence – portion of site or footprint of disturbance	\$480.00	

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Line delineation – site under one acre	\$600.00	
Line verification – site under one acre	\$600.00	\$1,000 plus \$100.00 per acre of site (or fraction thereof)
Line verification – site one acre or larger	\$600.00 plus \$84.00 per acre of site (maximum of \$60,000)	
Combination LOI and TAW– site one acre or smaller	\$840.00	\$1,000 plus \$100.00 per acre disturbed regulated area (or fraction thereof) of transition area affected by project and the fee for the appropriate LOI
Combination LOI and TAW– site larger than one acre	\$1,080 plus \$96.00 per acre of site	
Combination LOI and GP	Sum of all application fees	
Combination LOI and IP	IP fee	\$5,000 plus \$2,500 per acre of disturbed regulated area (or fraction thereof) and the fee for the appropriate LOI

Transition area waver		Existing Fee	Proposed Fee
Site one acre or smaller	Site is covered by a line delineation or line verification LOI	\$240.00	\$1,000 plus \$100.00 per acre of disturbed regulated area (or

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	Site is covered by presence/absence LOI	\$840.00	fraction thereof)  Note: If there is no valid LOI, the fee for the appropriate LOI
	Site is not covered by LOI		
Site greater than one acre	Site is covered by a line delineation or line verification LOI	\$600.00 plus \$48.00 per acre of transition area affected	
	Site is covered by presence/absence LOI	\$1,080 plus \$96.00 per acre of transition area affected	
	Site is not covered by LOI		
Multiple special activity TAWs		\$600.00 plus \$240.00 for each additional special activity TAW	\$1,000 plus \$100.00 per acre of disturbed regulated area (or fraction thereof) for each TAW application
Multiple other TAWs		Sum of application fees	Note: If there is no valid LOI, the fee for the appropriate LOI
Combination TAW and GP		TAW fee plus \$600.00 for first GP plus \$240.00 for each additional GP	\$1,000 plus \$100.00 per acre of disturbed regulated area (or fraction thereof) and \$1,000 for each general permit

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		Note: If there is no valid LOI, the fee for the appropriate LOI
Combination TAW and IP	TAW fee or IP fee, whichever is greater	\$5,000 plus \$2,500 per acre of disturbed regulated area (or fraction thereof) and \$1,000 plus \$100.00 per acre of disturbed regulated area (or fraction thereof) Note: If there is no valid LOI, the fee for the appropriate LOI

<b>Authorization under a General Permit</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
General permits 16, 17 (if on public land), and 25	No fee	No fee
All other general permits	\$600.00	\$1,000
Multiple general permit authorizations	\$600.00 plus \$240.00 for each additional GP	\$1,000 per general permit

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<b>Individual permit, open water fill permit, water quality certification where a permit is not also issued</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
One single-family home or duplex and/or appurtenant improvements	\$2,400 plus \$240.00 per 0.1 acre of regulated area affected	\$2,000
Any other activity		\$5,000 plus \$2,500 per acre of disturbed regulated area (or fraction thereof)

<b>Modification</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
Major modification	25 percent of the original fee or \$240.00 whichever is higher	30 percent of the original fee (minimum \$500.00)
Minor modification general permit authorization, TAW or IP	\$240.00	\$500.00

<b>Extension/Reissuance</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
Letter of interpretation	\$240.00 or 25 percent of original fee, whichever is greater	50 percent of original fee (minimum \$500.00)

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General permit authorization	\$240.00	
Transition area waiver	\$240.00	
Individual permit	\$1,200	
Open water fill permit		
Water quality certificate		

Review of stormwater management calculations		Existing Fee	Proposed Fee
Base fee for any major development		\$2,000	\$3,000
Review of groundwater recharge calculations (per acre of land disturbed by the project)	Up to three acres	\$500.00	\$250.00 per acre of land disturbed by the project (or fraction thereof)
	Between three and 10 acres	\$1,000	
	Between 10 and 100 acres	\$2,000	
	More than 100 acres	\$4,000	
Review of runoff quantity calculations (per acre of land disturbed by the project)	Up to three acres	\$500.00	\$250.00 per acre of land disturbed by the project (or fraction thereof)
	Between three and 10 acres	\$1,000	
	Between 10 and 100 acres	\$2,000	
	More than 100 acres	\$4,000	
Review of water	Up to one acre	\$500.00	\$250.00 per acre of



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quality calculations (per acre of impervious surface subject to review)	Between one and three acres	\$1,000	impervious surface subject to water quality review (or fraction thereof)
	Between three acres and 10 acres	\$2,000	
	More than 10 acres	\$4,000	
Project disturbs vegetation within a Special Water Resource Protection Area		\$2,000	\$2,000

As in the coastal application fee rules, the proposed new freshwater wetlands application fee rules include, at proposed new N.J.A.C. 7:7A-11.2, a mechanism by which the Department will, through publication in the New Jersey Register of a notice of fee report and administrative changes, adjust the freshwater wetlands application fees based on budget considerations where, for an upcoming State fiscal year, the Department determines a fee increase is necessary to address a calculated fee revenue shortfall between projected costs for the permitting program and projected funds (including fee revenue that would be realized based on the existing fees and funds from sources other than application fees, such as State appropriations or Federal grants) available to cover those costs. The fee report would be posted on the Department's website and would explain in greater detail the basis for the adjusted fees. The proposed new rule outlines the calculation for determining the adjusted fees, including the specific factors that will be considered in projecting costs and projecting available funds.

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### **Flood Hazard Area Control Act Rules, N.J.A.C. 7:13**

The Department is proposing to repeal the existing flood hazard application fee rules at N.J.A.C. 7:13-17 and replace them with new rules.

In the standards applicable to all general permits at existing N.J.A.C. 7:13-8.1, the Department is proposing to delete the fee amount for a general permit application at paragraph (c)4 but continue to refer the reader to the application fee rules at N.J.A.C. 7:13-17. At N.J.A.C. 7:13-8.1(k), the Department is proposing to delete a provision explaining the applicability of the fee for a verification because it is merely informational and is duplicative of the provisions regarding the fee at existing as well as proposed new N.J.A.C. 7:13-17.

At N.J.A.C. 7:13-14.1 regarding transfers of approvals, the Department is proposing to delete reference to the application fee for a transfer since a fee for a transfer of a permit or approval is not charged under the coastal or freshwater wetlands rules. Deleting the fee from the flood hazard rules brings the flood hazard fees into closer alignment with the coastal and freshwater wetlands fee rules.

At N.J.A.C. 7:13-15.1(b), which advises applicants that the Department encourages the submittal of a consolidated application for a single project that requires more than one land use approval, the Department is proposing to delete reference to a reduced fee for such applications since, for the reasons discussed previously with regard to the coastal application fees, the provision in the existing flood hazard fee rules at N.J.A.C. 7:13-17.1(e) for a reduced fee where multiple applications are submitted simultaneously (or, as referenced at existing N.J.A.C. 7:13-

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15.1(b), a single joint application seeking multiple approvals) is not continued in proposed new N.J.A.C. 7:13-17.

Proposed new N.J.A.C. 7:13-17 establishes the fees applicable to the various types of determinations, authorizations, and permits issued by the Department under the flood hazard rules. As under the existing rules, no fee is imposed for applicability determinations, permits-by-rule, emergency permit authorizations, or authorizations under two general permits (general permit 1 for channel cleaning under the Stream Cleaning Act and general permit 6 for reconstruction of a damaged or destroyed residence). As noted above, the Department is proposing to eliminate the fee currently charged under the flood hazard rules for a request to transfer an approval.

As explained previously with respect to the coastal application fee rules, the existing fee payment procedures are continued in the new flood hazard application fee rules, while the Department develops the capability to accept fees electronically. The provision regarding the ability to pay any fee that exceeds \$1,000 in installments in accordance with the requirements of the Department's rules at N.J.A.C. 7:1L, Payment Schedule for Permit Application Fees, is likewise continued in the new fee rules.

The amounts for the flood hazard application fees are set forth in proposed new N.J.A.C. 7:13-17.1(e), Table F. Below is a table showing the existing flood hazard application fees and the proposed new application fees. In both the existing and proposed new flood hazard fee rules, individual permit application fees are based on the number and type of project elements and the type of calculations that must be reviewed by the Department. In the existing fee rules, there are

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11 types of project elements with a total of 21 different fee options. The Department is proposing to simplify the fees by eliminating certain project elements and charging a base fee for all individual permit applications. Under the new proposed fee structure, the base fee for all individual permits, except for regulated activities associated with one private residence, is \$3,000. The following project elements are not continued in the proposed new fees for individual permits: changes in topography that do not require a review of net-fill calculations, sediment removal projects, the construction of a retaining wall, individual private residence, addition or appurtenant structure, and the category “any other activity.” The review of these elements will instead be covered by the proposed individual permit base fee. The Department is also proposing to eliminate the stormwater discharge structure project element as that review is subsumed in the additional application fee for stormwater review.

**Table comparing existing and proposed flood hazard area application fees**

<b>Verification</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
Methods 1, 2, 3, and 5	\$500.00 <sup>1,2</sup>	\$1,000 <sup>2</sup>
Methods 4 and 6	\$3,000 plus \$300.00 per each 100 linear feet of channel (or portion thereof)	\$4,000 plus \$400.00 per each 100 linear feet of regulated water (or fraction thereof)

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<sup>1</sup> Fee does not apply if application is submitted concurrently with an application for authorization under any general permit

<sup>2</sup> Fee does not apply if application is submitted concurrently with any permit application solely for the construction of one private residence, which is not being constructed as part of a residential subdivision or multi-unit development, or for the construction of an addition or other structure appurtenant to a private residence

<b>Authorization under a General Permit</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
General permits 1 and 6	No fee	No fee
Any other general permit	\$500.00	\$1,000

<b>Individual permit</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
Individual permit for the construction of one private residence, which is not being constructed as part of a residential subdivision or multi-unit development, or for the construction of an addition or other structure appurtenant to a private residence	\$1,000	\$2,000
Base fee for any other individual permit	None	\$3,000
<b>Additional review fee per project element</b>		
(Note: The proposed review fees below do not apply for any application associated with the construction of one private residence, which is not being constructed as part of a residential		

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subdivision or multi-unit development, or for the construction of an addition or other structure appurtenant to a private residence.)				
Bank or channel stabilization, reestablishment, protection or modification	Review of calculations necessary		\$3,000 plus \$300.00 per each 100-foot segment of channel (or portion thereof)	\$4,000 plus \$400.00 per each 100 linear feet of regulated water (or fraction thereof)
	No review of calculations necessary		\$1,000	\$1,000
Bridge, culvert, footbridge, low dam or other water control structure (including up to 200 feet of channel modification if necessary for the placement of the water control structure)	Review of calculations necessary	For a private residence	\$2,000	\$4,000
		All other	\$4,000	
	No review of calculations necessary		\$1,000	\$1,000
Review of hardship exception	Request associated with one private residence		No fee	Fee covered by base fee
	All other requests		\$4,000	\$5,000

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Private residence, addition, or appurtenant structure		\$1,000	No additional fee
Retaining wall	Extending four feet or more above ground	\$4,000	Fee covered by base fee
	Extending less than four feet above ground	\$1,000	
Review of net fill calculations	Associated with a bridge or culvert, or one private residence, addition, or appurtenant structure	No fee	
	Any other project	\$4,000	\$4,000
Sediment removal from a channel		\$1,000 plus \$100.00 per each 100-foot segment of channel (or portion thereof) not to exceed \$4,000	Fee covered by base fee
Stormwater discharge structure		\$1,000	Fee covered by stormwater fee
Utility line		\$1,000	\$1,000 per crossing of a regulated water
Any other project element		\$1,000	Fee covered by base fee

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<b>Revision of a verification, general permit authorization or individual permit</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
Each major revision	50 percent of original application fee for each project element to be revised	30 percent of the original application fee (minimum fee \$500.00)
Each minor revision	\$200.00 per element to be revised	\$500.00 per element to be revised

<b>Revision of a Department delineation</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
Each major revision	\$3,000 plus \$300.00 per each 100-foot segment of channel (or portion thereof) to be re-delineated	\$4,000 plus \$400.00 per each 100 linear feet of regulated water (or fraction thereof) to be re-delineated
Each minor revision	\$200.00	\$500.00

<b>Transfer an approval</b>	<b>Existing Fee</b>	<b>Proposed Fee</b>
Applicability determination or permit-by-rule	No fee	No fee



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Any other approval	\$200.00	
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Review of stormwater management calculations		Existing Fee	Proposed Fee
Base fee for any major development		\$2,000	\$3,000
Review of groundwater recharge calculations (per acre of land disturbed by the project)	Up to three acres	\$500.00	\$250.00 per acre of land disturbed by the project (or fraction thereof)
	Between three and 10 acres	\$1,000	
	Between 10 and 100 acres	\$2,000	
	More than 100 acres	\$4,000	
Review of runoff quantity calculations (per acre of land disturbed by the project)	Up to three acres	\$500.00	\$250.00 per acre of land disturbed by the project (or fraction thereof)
	Between three and 10 acres	\$1,000	
	Between 10 and 100 acres	\$2,000	
	More than 100 acres	\$4,000	
Review of water quality calculations (per acre of impervious surface subject to review)	Up to one acre	\$500.00	\$250.00 per acre of impervious surface subject to water quality review (or fraction thereof)
	Between one and three acres	\$1,000	
	Between three acres and 10 acres	\$2,000	
	More than 10 acres	\$4,000	

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Project disturbs vegetation within a Special Water Resource Protection Area	\$2,000	\$2,000
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As in the coastal and freshwater wetlands application fee rules, the proposed new flood hazard application fee rules include, at proposed new N.J.A.C. 7:13-17.2, a mechanism by which the Department will, through publication in the New Jersey Register of a notice of fee report and administrative changes, adjust the flood hazard application fees based on budget considerations where, for an upcoming State fiscal year, the Department determines a fee increase is necessary to address a calculated fee revenue shortfall between projected costs for the permitting program and projected funds (including fee revenue that would be realized based on the existing fees and funds from sources other than application fees, such as State appropriations or Federal grants) available to cover those costs. The fee report would be posted on the Department’s website and would explain in greater detail the basis for the adjusted fees. The proposed new rule outlines the calculation for determining the adjusted fees, including the specific factors that will be considered in projecting costs and projecting available funds.

**Social Impact**

The proposed amendments, repeals, and new rules concerning the application fees in the coastal, freshwater wetlands, and flood hazard rules will have a positive social impact on New Jersey’s taxpayers because, as discussed in the Economic Impact statement, the increased fee

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revenue will reduce the need to support the legislatively mandated permit application reviews using general fund resources.

The proposed amendments, repeals, and new rules, which increase application fees, will have some negative social impact on applicants for coastal, freshwater wetlands, and flood hazard permits and determinations to the extent the increase in fees has any effect on applicants' decisions to seek permits for projects. To the extent there is any such impact, the Department believes it is minor in comparison to the positive impacts of helping ensure there is adequate funding of these permitting programs whose legislatively mandated purpose is to protect environmentally sensitive resources and the public safety.

### **Economic Impact**

The proposed amendments, repeals, and new rules will increase application fees for coastal, freshwater wetlands, and flood hazard permits and determinations. This increase will help reduce the burden on the State's taxpayers by reducing the Department's funding shortfalls for the three permitting programs, thereby reducing the need for general fund resources to cover those shortfalls. The proposed fees will also impact those who are required to obtain permits for regulated activities under the three permitting programs.

The total costs and total application fee revenues for the coastal, freshwater wetlands, and flood hazard permitting programs for each of the five years from FY 2010 through FY 2014 are shown in the table below.

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**Costs and fee revenues for coastal, freshwater wetlands, and flood hazard permitting programs**

	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Program costs	\$12,186,191	\$13,039,813	\$14,772,114	\$15,915,441	\$16,673,598
Fee revenues	\$9,085,856	\$9,281,093	\$8,651,866	\$8,028,444	\$8,088,355
Shortfall	(\$3,100,335)	(\$3,758,720)	(\$6,120,248)	(\$7,886,997)	(\$8,585,243)
Shortfall/Costs	-25 percent	-29 percent	-41 percent	-50 percent	-51 percent
Cumulative shortfall	(\$3,100,335)	(\$6,859,055)	(\$12,979,304)	(\$20,866,301)	(\$29,451,544)

The funding shortfalls have resulted from a number of factors, including:

- The Department’s Division of Land Use Regulation has not in the past fully budgeted for the costs of the program. Fringe and indirect costs were not consistently factored into the overall program costs, which has substantially increased the need to make up the shortfall from general fund sources.
- From FY 2010 to FY 2014, for example, costs related to employee fringe benefits increased almost 14 percent annually, as mandated by State legislation, collective bargaining agreements, and other factors external to the Department. Costs related to indirect expenses have also increased. Indirect costs are based on a percentage of direct salary costs plus the applicable fringe benefits. Although the percentage for

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calculating indirect costs has been roughly constant over past five years, in dollar terms these costs have increased as salaries have increased.

As a result of the increases in costs and decreases in revenues, the shortfall for the programs has increased by about \$ 1.4 million/year or about 29 percent annually, over the period FY 2010 to FY 2014. Even with the proposed overall increases in the application fees, the shortfall is expected to continue to increase, though to a lesser extent.

In previous years the coastal, freshwater wetlands, and flood hazard permitting programs' fee revenue shortfall has been funded through general fund resources, which means that taxpayers and other funding sources rather than the regulated entities have borne part of the cost of the permitting programs. The Department promulgated the existing fee schedules in 2006 (see 38 N.J.R. 134(a) (flood hazard application fee amendments) 38 N.J.R. 4205(a) (coastal application fee amendments), and 38 N.J.R. 4209(a) (freshwater wetlands application fee amendments)). The fees have not been amended since that time.

Accordingly, the Department is proposing to increase application fees to cover an increased portion of the programs' costs. The Department estimates that the proposed application fees will result in additional revenue of approximately \$3 million annually, thereby decreasing the annual shortfall by the same amount.

Compared with the existing fees, the proposed adjusted fees more accurately reflect the Department's current costs related to reviewing and processing applications in the coastal, freshwater wetlands, and flood hazard programs. As a result, the proposed fees are better aligned

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with the costs to process specific categories of permits and determinations. However, as shown in the table above, the proposed adjustments will not produce enough revenue to fully fund the programs' costs.

The application fees in the coastal, freshwater wetlands, and flood hazard rules as they are proposed to be adjusted will directly affect those who engage in regulated activities that require permits and other determinations under the three permitting programs. While overall the application fees across the three programs are proposed to be increased, some fees are increased and others are decreased in an effort to more closely align the fees with the current resources required to review and process applications. The Department anticipates that, like the existing fees, the proposed fees will constitute a very small portion of the total project cost for those activities requiring a permit or determination.

### **Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65) require State agencies which adopt, readopt, or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards analysis.

The Federal Coastal Zone Management Act (P.L. 92-583) 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 meets 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

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(NOAA) to implement its program under the Federal 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. Since there are no established Federal standards for permitting or the establishment of application fees, there is no basis for comparison. Therefore, the Department has concluded that the proposed amendments, repeals, and new rules for coastal application fees do not exceed any Federal standards or requirements.

New Jersey has assumed the Federal Clean Water Act Section 404 program (33 U.S.C. § 1344) throughout most of the State through the freshwater wetlands permitting program as mandated by the Freshwater Wetlands Protection Act (FWPA). The basic structure of the Department's freshwater wetlands permitting program and much of its substance are essentially the same as the Federal 404 program. Both provide for individual and general permits. Both use similar key concepts and definitions, and apply similar standards in approving both general and individual permits. However, while the New Jersey Legislature used the Federal 404 program as the basis for the FWPA, it also tailored the FWPA to meet the needs of New Jersey and to more strictly limit activities in and around wetlands in order to avoid excessive wetlands losses in New Jersey. As a result, the New Jersey program regulates more types of activities in freshwater wetlands than the Federal 404 program does, regulates the upland "transition area" around each wetland, and requires a more involved process to obtain approval from the Department for regulated activities. The Department's freshwater wetlands permitting program is fee-supported. Application fees are established for each type of review activity, including letters of interpretation, general and individual permits, and transition area waivers. The Federal

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government operates the U.S. Army Corps of Engineers (ACOE) program using an annual appropriation instead of assessing permit fees sufficient to support its operations. Consequently, the ACOE charges nominal fees for a minor subset of its review activities, with the actual operating costs supported through the Federal budget. There are no fees for nationwide permit authorizations, for jurisdictional determinations, or for transition area waivers (since transition areas are not regulated features pursuant to the Federal program). The ACOE charges individual homeowners \$10.00 for the review of an individual permit application. For commercial entities, the individual permit review fee is \$100.00.

The State of New Jersey is required to balance its budget each year, whereas there is no corresponding obligation for an annually balanced Federal budget. The State Legislature has determined that application fees should be charged to those who will receive the major benefit from developing environmentally sensitive lands. Therefore, the Department has concluded that the proposed amendments, repeals, and new rules for the freshwater wetland application fees do not exceed any Federal Standards or requirements.

With respect to the Department's flood hazard rules, although the Federal Emergency Management Agency (FEMA) delineates some flood hazard areas in the State for the purposes of the Federal flood insurance program, there is no Federal agency or program that directly regulates activities in flood hazard areas based on their potential flooding impacts. The FEMA rules at 44 CFR Part 60 provide that municipalities that participate in the National Flood Insurance Program (NFIP) must adopt certain flood hazard reduction standards for construction and development in 100-year flood plains. However, a community's participation in the NFIP is voluntary, and FEMA does not otherwise regulate land uses in flood hazard areas. Furthermore,



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the Federal flood reduction standards at 44 C.F.R. Part 60 are administered by local governments. Therefore, the Department has determined that the proposed amendments, repeals, and new rules for the flood hazard application fees do not exceed any Federal standards or requirements.

### **Environmental Impact**

The proposed amendments, repeals, and new rules concerning application fees will have a positive environmental impact by increasing the revenues necessary to support the coastal, freshwater wetlands, and flood hazard permitting programs. These programs are implemented pursuant to statutes intended to safeguard the State's important coastal and freshwater wetland and water resources, as well as protect the public's health and safety. The statutes specifically provide for the imposition of fees for the review and processing of applications for the various permits and other determinations that the Department issues to carry out the mandates and goals of the respective environmental protection programs.

### **Jobs Impact**

The proposed amendments, repeals, and new rules concerning application fees for the coastal, freshwater wetlands, and flood hazard permitting programs are not expected to have any impact on the number of jobs in the State. The fee changes do not affect the type or location of development that is subject to regulation or alter the requirements associated with the submission of applications. The increase in application fees is not expected to result in the loss or gain of jobs relating to the construction or environmental consulting industries.

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### **Agriculture Industry Impact**

Pursuant to N.J.S.A. 52:14B-4, the Department evaluated this rulemaking to determine the nature and extent of the impacts of the proposed amendments, repeals, and new rules on the agriculture industry. The proposed amendments, repeals, and new rules concerning application fees for the coastal, freshwater wetlands, and flood hazard permitting programs will have no impact on agricultural activities. Agricultural activities would be subject to permit requirements, and thus the proposed fee changes, only if the activity met the definition of a regulated activity in the respective permitting rules. The increase in application fees is, therefore, not expected to have any impact on the agriculture industry.

### **Regulatory Flexibility Analysis**

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that some applicants for permits and determinations for which fees will be affected by the proposed amendments, repeals, and new rules are “small businesses” as defined in the Act.

The proposed application fees are based on the type of permit or determination being sought, and thus any increase or decrease in the particular fee applicable to the application will generally have the same impact on small businesses as on other persons (see the Economic Impact statement above). The proposed amendments, repeals, and new rules concerning application fees will not impose additional reporting or recordkeeping requirements on small businesses, or require them to obtain professional services to comply.

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The costs that would be imposed on small businesses under the proposed amendments, repeals, and new rules concerning application fees are necessary to support the coastal, freshwater wetlands, and flood hazard permitting programs. Increasing fee revenues is necessary to help maintain appropriate review of applications and potential environmental impacts in order to protect coastal, wetlands, and water resources, and the public health and welfare. Accordingly, no exemptions or lesser requirements for small businesses are provided.

### **Housing Affordability Impact Analysis**

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Department has evaluated the proposed amendments, repeals, and new rules to determine the impact, if any, on the affordability of housing.

The proposed amendments, repeals, and new rules establish a simplified, cohesive fee structure across the coastal, freshwater wetlands, and flood hazard permitting programs, and will result in an increase in application fees across the three programs. As indicated in the Economic Impact statement, while overall the fees will be increased, some fees are increased and others decreased in order to better align the fees with the resources needed to review and process applications. The proposed increase overall in the fees will constitute a very small portion of the total project cost for those activities requiring a permit or determination under any of the three permitting programs. As a consequence, the Department believes there is an extreme unlikelihood that the economic impacts associated with the proposed fee amendments, repeals, and new rules would evoke a change in the average costs associated with housing.

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### **Smart Growth Development Impact Analysis**

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Department has evaluated the proposed amendments, repeals, and new rules to determine the impacts, if any, on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan (State Plan). The proposed amendments, repeals, and new rules establish a simplified, cohesive fee structure across the coastal, freshwater wetlands, and flood hazard permitting programs, and will result in an increase in application fees for the three programs. As indicated in the Economic Impact statement, while overall the fees will be increased, some fees are increased and others decreased in order to better align the fees with the resources needed to review and process applications. The proposed increase overall in the fees will constitute a very small portion of the total project cost for those activities requiring a permit or determination under any of the three permitting programs. As a consequence, the Department believes there is an extreme unlikelihood that the economic impacts associated with the proposed fee amendments, repeals, and new rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers.

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**Full text** of the rules proposed for repeals may be found in the New Jersey Administrative Code at N.J.A.C. 7:7-10, 7:7A-11, and 7:13-17.

**Full text** of the proposed amendments and new rules follows (additions indicated in boldface **thus**;) deletions indicated in brackets [thus]:

## CHAPTER 7

### COASTAL PERMIT PROGRAM RULES

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 7:7-1.8 Procedure where more than one permit is required

[(a)] When a proposed development or project requires more than one coastal permit, the Department will require only one application, but that application must comply with the requirements of each applicable permit program. This does not preclude an applicant from submitting separate applications if the timing or magnitude of a project requires it.

[(b)] The Department shall assess a single permit fee for a project which requires more than one of the following permits, if the permit applications are submitted and processed simultaneously: CAFRA permits; waterfront development permits; coastal wetlands permits; stream encroachment permits; or freshwater wetlands permits (including individual permits, general permits, and transition area waivers) issued under N.J.A.C. 7:7A. The permit fee for the project shall be calculated in accordance with N.J.A.C. 7:7-10.5(a).]

#### SUBCHAPTER 2. ACTIVITIES FOR WHICH A PERMIT IS REQUIRED

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#### 7:7-2.1 CAFRA

(a) - (e) (No change.)

(f) Development that is exempt from CAFRA requires no certification or approval from the Department, except as may be required by other programs administered by the Department. Any person who wishes may request from the Department a written determination of a development's exemption from the requirements of this subchapter.

1. For an exemption pursuant to (c)1 and 2 above, the following shall be submitted:

i. – ii. (No change.)

iii. The fee specified at N.J.A.C. 7:7-[10.4(e)]**10.1**; and

iv. (No change.)

2. For an exemption pursuant to (c)3, 4, and 5 above, the following shall be submitted:

i. – ii. (No change.)

iii. The fee specified at N.J.A.C. 7:7-[10.4(e)]**10.1**; and

iv. (No change.)

3. For an exemption pursuant to (c)8 above, the following shall be submitted:

i. – iv. (No change.)

v. The fee specified at N.J.A.C. 7:7-[10.4(e)]**10.1**; and

vi. (No change.)

#### 7:7-2.3 Waterfront development

(a) - (e) (No change.)

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(f) Any person proposing to undertake or cause to be undertaken any development or activity in or near the waterfront area may request in writing a determination that the proposal is not subject to the requirements of this subchapter on the basis that the proposed development site is located outside the waterfront area, or that the proposed development does not require a permit under (d) above.

1. For a written determination of exemption pursuant to (d)1 and 2 above, the following shall be submitted:

- i. – iii. (No change.)
- iv. The fee specified at N.J.A.C. 7:7-[10.2]**10.1**; and
- v. (No change.)

2. For a written determination of exemption pursuant to (d)3 above, the following shall be submitted:

- i. – iii. (No change.)
- iv. The fee specified at N.J.A.C. 7:7-[10.2]**10.1**; and
- v. (No change.)

3. For a written determination of exemption pursuant to (d)4 and 5 above, the following shall be submitted:

- i. – ii. (No change.)
- iii. The fee specified at N.J.A.C. 7:7-[10.2]**10.1**;
- iv. – ix. (No change.)

4. For a written determination of exemption pursuant to (d)6 above, the following shall be submitted:

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i. – ii. (No change.)

iii. The fee specified at N.J.A.C. 7:7-[10.2]**10.1**; and

iv. (No change.)

(g) – (h) (No change.)

#### SUBCHAPTER 4. PERMIT REVIEW PROCEDURE

##### 7:7-4.2 Application contents

(a) Individual waterfront development, wetland, and CAFRA permit application submissions shall comply with (a) through (f) below. Individual CAFRA permit applicants must also provide public notice in the newspaper of an application submission to the Department in accordance with N.J.A.C. 7:7-4.3, Newspaper notice of application submission and availability of application for examination by the public. The submission requirements for the coastal general permits are found at N.J.A.C. 7:7-7.3, Application procedure for a coastal general permit authorization.

1. (No change.)

2. [A check, money order, or government voucher made payable to the “Treasurer, State of New Jersey-Environmental Services Fund” in the amount of the appropriate fee as set forth at N.J.A.C. 7:7-10] **The appropriate application fee as set forth at N.J.A.C. 7:7-10.1;**

3. – 10. (No change.)

(b) – (g) (No change.)



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## **SUBCHAPTER 10. APPLICATION FEES**

### **7:7-10.1 Application fees**

**(a) This subchapter establishes the application fees for:**

- 1. A written determination of exemption from CAFRA pursuant to N.J.A.C. 7:7-2.1(f), or from the Waterfront Development Law pursuant to N.J.A.C. 7:7-2.3(h);**
- 2. An authorization under a general permit, pursuant to N.J.A.C. 7:7-7.5 through 7.36, except for the general permit for habitat creation, restoration, enhancement, and living shoreline activities, N.J.A.C. 7:7-7.29;**
- 3. An individual permit; and**
- 4. A modification of an authorization under a general permit or an individual permit pursuant to N.J.A.C. 7:7-4.10 or 7.3A, respectively.**

**(b) There is no application fee for:**

- 1. A jurisdictional determination pursuant to N.J.A.C. 7:7-1.5(a)2;**
- 2. An emergency permit authorization pursuant to N.J.A.C. 7:7-1.7;**
- 3. A permit-by-rule pursuant to N.J.A.C. 7:7-7.2(a)1 through 21; or**
- 4. An authorization under the general permit for habitat creation, restoration, enhancement, and living shoreline activities, N.J.A.C. 7:7-7.29.**

**(c) All application fees shall be paid by money order, check (personal, bank, certified, or attorney) or government purchase order made payable to the “Treasurer, State of New Jersey.”**

**(d) Any fee required under this chapter that is subject to N.J.A.C. 7:1L, Payment Schedule for Permit Application Fees, shall be payable in installments in accordance with**

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**N.J.A.C. 7:1L.**

**(e) The fee payable at the time of application for a CAFRA or waterfront development individual permit shall not exceed \$30,000. If the fee for an individual permit application determined under (g) below exceeds \$30,000, the Department will document its actual costs for review and processing of the application and the estimated cost of determining compliance with the conditions of the permit. The Department shall provide the applicant with documentation of such costs, and the applicant shall pay a supplemental fee in that amount.**

**(f) The application fee for a CAFRA individual permit or a waterfront development individual permit for a mixed residential and non-residential development shall be the sum of the applicable fees for residential development and non-residential development set forth at (g) below.**

**(g) The fees for applications under this chapter are set forth in Table A below:**

**Table A**

**APPLICATION FEES**

**Determination of exemption**

	<b>Fee</b>
<b>Request for a written determination of exemption from CAFRA pursuant to N.J.A.C. 7:7-2.1(f)</b>	<b>\$500.00</b>
<b>Request for a written determination of exemption from the</b>	<b>\$500.00</b>

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<b>Waterfront Development Law pursuant to N.J.A.C. 7:7-2.3(h)</b>	
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**Authorization under a general permit by certification (Reserved)**

**Authorization under a general permit pursuant to N.J.A.C. 7:7-7.5 through 7.36**

	<b>Fee</b>
<b>General permit for habitat creation, restoration, enhancement, and living shoreline activities, N.J.A.C. 7:7-7.29</b>	<b>No fee</b>
<b>Any other general permit</b>	<b>\$1,000</b>

**CAFRA individual permit**

	<b>Fee</b>
<b>CAFRA individual permit for the development of one single-family home or duplex and/or accessory development, which is not being constructed as part of a residential subdivision or multi-unit development</b>	<b>\$2,000</b>
<b>CAFRA individual permit for any other residential development</b>	<b>\$3,000 per unit</b>
<b>CAFRA individual permit for a commercial, industrial, or public development</b>	<b>\$3,000 per acre of the site (or fraction</b>

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**Coastal wetlands individual permit**

	Fee
<b>Coastal wetlands individual permit for the development of one single family home or duplex and/or accessory development, which is not being constructed as part of a residential subdivision or multi-unit development</b>	<b>\$2,000</b>
<b>Coastal wetlands individual permit for any other development</b>	<b>\$3,000 per acre of wetlands to be disturbed (or fraction thereof)</b>

**Waterfront development individual permit**

	Fee
<b>Waterfront development individual permit for the development of one single-family home or duplex and/or accessory development located landward of the mean high water line, where the development is not being constructed as part of a residential subdivision or multi-unit development</b>	<b>\$2,000</b>
<b>Waterfront development individual permit for any other</b>	<b>\$3,000 per unit</b>

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<b>residential development located landward of the mean high water line</b>	
<b>Waterfront development individual permit for a commercial, industrial, or public development located landward of the mean high water line</b>	<b>\$3,000 per acre of the site (or fraction thereof)</b>
<b>Waterfront development individual permit for development located waterward of the mean high water line, such as a dock or bulkhead, at a single-family or duplex lot, where the development is not being constructed as part of a residential subdivision or multi-unit development</b>	<b>\$2,000</b>
<b>Waterfront development individual permit for any other development located waterward of the mean high water line</b>	<b>\$3,000 per acre of water area impacted by the development (or fraction thereof)</b>

**Request for a modification of a waterfront development, coastal wetlands, or CAFRA individual permit pursuant to N.J.A.C. 7:7-4.10 or a general permit pursuant to N.J.A.C. 7:7-7.3A**

	<b>Fee</b>
<b>Modification of an authorization under a general permit</b>	<b>\$500.00</b>

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<b>Minor modification of a waterfront development, coastal wetlands, or CAFRA individual permit</b>	<b>\$500.00</b>
<b>Major modification of a waterfront development individual permit for development located landward of the mean high water line or a CAFRA individual permit</b>	<b>30 percent of the original application fee or \$500.00, whichever is greater</b>

**Request to extend a general permit authorization or an individual permit (Reserved)**

**Additional application fee for stormwater review if a project is a “major development” pursuant to the Stormwater Management Rules (see N.J.A.C. 7:8-1.2)**

	<b>Fee</b>
<b>Base fee for any major development</b>	<b>\$3,000</b>
<b>Additional fee for review of groundwater recharge calculations (see N.J.A.C. 7:8-5.4)</b>	<b>\$250.00 per acre of land disturbed by the project (or fraction thereof)</b>
<b>Additional fee for review of runoff quantity calculations (see N.J.A.C. 7:8-5.4)</b>	<b>\$250.00 per acre of land disturbed by the project (or fraction thereof)</b>
<b>Additional fee for review of water quality calculations (see N.J.A.C. 7:8-5.5)</b>	<b>\$250.00 per acre of impervious surface subject to water quality review (or fraction thereof)</b>

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<b>Additional fee if project disturbs vegetation within a Special Water Resource Protection Area (see N.J.A.C. 7:8-5.5)</b>	<b>\$2,000</b>
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#### **7:7-10.2 Adjustment of application fees**

(a) When, based on budget considerations, the Department determines to adjust the application fees established in this subchapter for the upcoming State fiscal year (which runs from July 1 to June 30), the Department shall:

1. Prepare an Application Fee Adjustment Report, in accordance with (b) below; and
2. Publish a notice of administrative change in the New Jersey Register that:
  - i. States that the Application Fee Adjustment Report is available on the Department's website at [www.nj.gov/dep/landuse](http://www.nj.gov/dep/landuse); and
  - ii. Sets forth the adjusted application fees determined as provided at (b) below.

(b) In the Application Fee Adjustment Report, the Department shall:

1. Project the total amount of money required to fund the program in the upcoming State fiscal year. This projection shall consider the following:
  - i. The number and type of Department staff required to perform each activity for which fees are charged and the projected total salaries of those staff for the upcoming State fiscal year;
  - ii. The total cost of fringe benefits for those Department staff, calculated as the projected total salaries of those staff multiplied by a percentage set by the New Jersey Department of the Treasury that reflects costs associated with pensions, health benefits,

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**workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;**

**iii. Indirect costs attributable to those Department staff, calculated as the total salaries and fringe benefits for those staff multiplied by a percentage known as the indirect cost rate. The indirect cost rate is negotiated annually with the U.S. Environmental Protection Agency and is the total of the Department's costs for management and administrative costs applicable to multiple cost objectives (including but not limited to, indirect management and administrative salary and non-salary costs, applicable fringe benefits, building rent, and the Department's share of the Statewide Cost Allocation Plan) divided by total Department direct salaries plus applicable fringe benefits; and**

**iv. Projected operating costs attributable to those Department staff, including, but not limited to, costs for postage, telephone, travel, supplies, and data system management;**

**2. Project the total amount of revenue expected to be received from application fees in the upcoming State fiscal year. This projection shall consider the following:**

**i. The number and type of applications received in previous State fiscal years;**  
**ii. Any trend toward increasing or decreasing construction activities in regulated areas and such trend's impact, if any, on the number and type of applications anticipated for the upcoming State fiscal year;**

**iii. Other data concerning economic trends reasonably likely to influence the number and type of applications anticipated for the upcoming State fiscal year; and**

**iv. The application fees in effect at the time such projection is made;**



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**3. Project the total amount of money to be available from sources other than application fees, such as State appropriations or Federal grants, for the upcoming State fiscal year;**

**4. Subtract the amounts in (b)2 and 3 above from the amount in (b)1 above. The remainder is the projected fee revenue shortfall for the upcoming State fiscal year; and**

**5. Divide the projected fee revenue shortfall in (b)4 above by the total amount of revenue expected to be received from application fees in (b)2 above to determine the fee adjustment factor. The amounts of the adjusted application fees for the upcoming State fiscal year shall be obtained by increasing the existing fees by the fee adjustment factor.**

## CHAPTER 7A

### FRESHWATER WETLANDS PROTECTION ACT RULES

#### SUBCHAPTER 10. APPLICATION CONTENTS AND PROCEDURE

##### 7:7A-10.1 Basic application information

(a) – (l) (No change.)

(m) If a project requires approvals from the Division of Land Use Regulation under other chapters, the Department encourages, but does not require, the applicant to submit one application for all project approvals. If an application covers more than one Division of Land Use Regulation approval, the application shall:

1. (No change.)

2. Include the application fee required at N.J.A.C. 7:7A-11 [for multiple approvals]; and

3. (No change.)

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(n) – (q) (No change.)

## **SUBCHAPTER 11. APPLICATION FEES**

### **7:7A-11.1 Application fees**

**(a) This subchapter establishes the application fees for:**

- 1. An exemption letter pursuant to N.J.A.C. 7:7A-2.10;**
- 2. A letter of interpretation pursuant to N.J.A.C. 7:7A-3;**
- 3. An authorization under a general permit pursuant to N.J.A.C. 7:7A-5, except for:**
  - i. General permit 16 – Habitat creation and enhancement activities, N.J.A.C. 7:7A-5.16;**
  - ii. General permit 17 – Trails and boardwalks, N.J.A.C. 7:7A-5.17, for a project located on publicly-owned land; and**
  - iii. General permit 25 – Malfunctioning individual subsurface sewage disposal (septic) systems, N.J.A.C. 7:7A-5.25;**
- 4. A transition area waiver pursuant to N.J.A.C. 7:7A-6;**
- 5. A freshwater wetlands individual permit and an open water fill individual permit pursuant to N.J.A.C. 7:7A-7;**
- 6. A water quality certificate issued under this chapter pursuant to N.J.A.C. 7:7A-2.1(d) where a permit is not also issued;**
- 7. A modification of an authorization under a general permit, a transition area waiver, or a freshwater wetlands or open water fill individual permit pursuant to N.J.A.C. 7:7A-14.3; and**
- 8. An extension of a letter of interpretation pursuant to N.J.A.C. 7:7A-3.6, or of an authorization under a general permit, a transition waiver, or a freshwater wetlands or**

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**open water fill individual permit, pursuant to N.J.A.C. 7:7A-14.6.**

**(b) There is no application fee for:**

**1. An application submitted by an agency of the State pursuant to N.J.A.C. 7:7A-2.1(b);**

**2. An authorization under the following general permits:**

**i. General permit 16---Habitat creation and enhancement activities, N.J.A.C. 7:7A-5.16;**

**ii. General permit 17---Trails and boardwalks, N.J.A.C. 7:7A-5.17, for a project located on publicly-owned land; and**

**iii. General permit 25---Malfunctioning individual subsurface sewage disposal (septic) systems, N.J.A.C. 7:7A-5.25; or**

**3. An emergency permit pursuant to N.J.A.C. 7:7A-8.**

**(c) All application fees shall be paid by money order, check (personal, bank, certified, or attorney) or government purchase order payable to the “Treasurer, State of New Jersey.”**

**(d) Any fee required under this chapter that is subject to N.J.A.C. 7:1L, Payment Schedule for Permit Application Fees, shall be payable in installments in accordance with N.J.A.C. 7:1L.**

**(e) An application fee is refundable if the Department returns the application as administratively incomplete under N.J.A.C. 7:7A-12.1(b). An application fee is not refundable once the application has been declared administratively complete under N.J.A.C. 7:7A-12.1. However, if the Department denies an application, or if the applicant withdraws the application under N.J.A.C. 7:7A-12.6, the Department shall credit the fee**

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toward a new application for a revised project on the same site, if the new application is submitted within one year of the denial or withdrawal.

(f) In some cases, an applicant's act or omission makes it necessary for Department staff to perform more than one site visit during the review of an application. In such a case, the Department shall assess an additional fee of up to \$ 1,000 for each additional site visit. No permit, waiver, or letter of interpretation shall be issued until this fee has been paid.

(g) The fees for applications under this chapter are set forth in Table A below:

**Table A**

**APPLICATION FEES**

**Exemption letter**

	<b>Fee</b>
<b>Exemption letter pursuant to N.J.A.C. 7:7A-2.10</b>	<b>\$500.00</b>

**Letter of Interpretation (LOI)**

	<b>Fee</b>
<b>Presence/absence LOI pursuant to N.J.A.C. 7:7A-3.2</b>	<b>\$1,000</b>
<b>Footprint of disturbance LOI pursuant to N.J.A.C. 7:7A-3.2</b>	<b>\$1,000</b>
<b>Delineation LOI pursuant to N.J.A.C. 7:7A-3.3</b>	<b>\$1,000</b>
<b>Line verification LOI pursuant to N.J.A.C. 7:7A-3.4</b>	<b>\$1,000 plus \$100.00 per acre of the site</b>

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	<b>(or fraction thereof)</b>
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**Authorization under a general permit pursuant to N.J.A.C. 7:7A-5**

	Fee
<b>General permit 16---Habitat creation and enhancement activities, N.J.A.C. 7:7A-5.16</b>	<b>No fee</b>
<b>General permit 17---Trails and boardwalks, N.J.A.C. 7:7A-5.17, for a project located on publicly-owned land</b>	<b>No fee</b>
<b>General permit 25---Malfunctioning individual subsurface sewage disposal (septic) systems, N.J.A.C. 7:7A-5.25</b>	<b>No fee</b>
<b>Any other general permit</b>	<b>\$1,000</b>

**Transition area waiver pursuant to N.J.A.C. 7:7A-6**

	Fee
<b>Transition area waiver with a valid letter of interpretation</b>	<b>\$1,000 plus \$100.00 per acres of disturbed regulated area (or fraction thereof)</b>
<b>Transition area waiver without a valid letter of interpretation</b>	<b>\$1,000 plus \$100.00 per acre of disturbed regulated area (or fraction thereof) and the application fee for the appropriate LOI</b>

**Freshwater wetlands or open water fill individual permit pursuant to N.J.A.C. 7:7A-7**

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	Fee
<b>Freshwater wetlands or open water fill individual permit for the construction of one single-family home or duplex and/or appurtenant improvements, which is not being constructed as part of a residential subdivision or multi-unit development</b>	<b>\$2,000</b>
<b>Freshwater wetlands or open water fill individual permit for any other activity</b>	<b>\$5,000 plus \$2,500 per acre of disturbed regulated area (or fraction thereof)</b>

**Water quality certificate pursuant to N.J.A.C. 7:7A-2.1(d)**

	Fee
<b>Water quality certificate where a permit is not also issued</b>	<b>\$5,000 plus \$2,500 per acre of disturbed regulated area (or fraction thereof)</b>

**Modification of an authorization under a general permit, a transition area waiver or a freshwater wetlands or open water fill individual permit pursuant to N.J.A.C. 7:7A-14.3**

	Fee

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<b>Minor modification of an authorization under a general permit</b>	<b>\$500.00</b>
<b>Minor modification of a transition area waiver</b>	<b>\$500.00</b>
<b>Minor modification of a freshwater wetlands or open water fill individual permit</b>	<b>\$500.00</b>
<b>Major modification of a transition area waiver, freshwater wetlands or open water fill individual permit</b>	<b>30 percent of the original application fee or \$500.00, whichever is greater</b>

**Extension of a letter of interpretation (LOI) pursuant to N.J.A.C. 7:7A-3.6 or of an authorization under a general permit, a transition area waiver, or an individual permit pursuant to N.J.A.C. 7:7A-14.6**

	<b>Fee</b>
<b>Extension of a presence/absence LOI</b>	<b>\$500.00</b>
<b>Extension of a footprint of disturbance LOI</b>	<b>\$500.00</b>
<b>Extension of a delineation LOI</b>	<b>\$500.00</b>
<b>Extension of a verification LOI</b>	<b>50 percent of the original application fee or \$500.00, whichever is greater</b>
<b>Extension of an authorization under a general permit</b>	<b>\$500.00</b>
<b>Extension of a transition area waiver</b>	<b>\$500.00</b>

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<b>Extension of a freshwater wetlands or open water fill individual permit</b>	<b>50 percent of original application fee or \$500.00, whichever is greater</b>
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**Additional application fee for stormwater review if a project is a “major development” pursuant to the Stormwater Management Rules (see N.J.A.C. 7:8-1.2)**

	<b>Fee</b>
<b>Base fee for any major development</b>	<b>\$3,000</b>
<b>Additional fee for review of groundwater recharge calculations (see N.J.A.C. 7:8-5.4)</b>	<b>\$250.00 per acre of land disturbed by the project (or fraction thereof)</b>
<b>Additional fee for review of runoff quantity calculations (see N.J.A.C. 7:8-5.4)</b>	<b>\$250.00 per acre of land disturbed by the project (or fraction thereof)</b>
<b>Additional fee for review of water quality calculations (see N.J.A.C. 7:8-5.5)</b>	<b>\$250.00 per acre of impervious surface subject to water quality review (or fraction thereof)</b>
<b>Additional fee if project disturbs vegetation within a Special Water Resource Protection Area (see N.J.A.C. 7:8-5.5)</b>	<b>\$2,000</b>



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**7:7A-11.2 Adjustment of application fees**

**(a) When, based on budget considerations, the Department determines to adjust the application fees established in this subchapter for the upcoming State fiscal year (which runs from July 1 to June 30), the Department shall:**

- 1. Prepare an Application Fee Adjustment Report, in accordance with (b) below; and**
- 2. Publish a notice of administrative change in the New Jersey Register that:**
  - i. States that the Application Fee Adjustment Report is available on the Department's website at [www.nj.gov/dep/landuse](http://www.nj.gov/dep/landuse); and**
  - ii. Sets forth the adjusted application fees determined as provided at (b) below.**

**(b) In the Application Fee Adjustment Report, the Department shall:**

- 1. Project the total amount of money required to fund the program in the upcoming State fiscal year. This projection shall consider the following:**
  - i. The number and type of Department staff required to perform each activity for which fees are charged and the projected total salaries of those staff for the upcoming State fiscal year;**
  - ii. The total cost of fringe benefits for those Department staff, calculated as the projected total salaries of those staff multiplied by a percentage set by the New Jersey Department of the Treasury that reflects costs associated with pensions, health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;**
  - iii. Indirect costs attributable to those Department staff, calculated as the total salaries and fringe benefits for those staff multiplied by a percentage known as**

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- the indirect cost rate. The indirect cost rate is negotiated annually with the U.S. Environmental Protection Agency and is the total of the Department's costs for management and administrative costs applicable to multiple cost objectives (including but not limited to, indirect management and administrative salary and non-salary costs, applicable fringe benefits, building rent, and the Department's share of the Statewide Cost Allocation Plan) divided by total Department direct salaries plus applicable fringe benefits; and**
- iv. Projected operating costs attributable to those Department staff, including, but not limited to, costs for postage, telephone, travel, supplies, and data system management;**
- 2. Project the total amount of revenue expected to be received from application fees in the upcoming State fiscal year. This projection shall consider the following:**
- i. The number and type of applications received in previous State fiscal years;**
- ii. Any trend toward increasing or decreasing construction activities in regulated areas and such trend's impact, if any, on the number and type of applications anticipated for the upcoming State fiscal year;**
- iii. Other data concerning economic trends reasonably likely to influence the number and type of applications anticipated for the upcoming State fiscal year; and**
- iv. The application fees in effect at the time such projection is made;**

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- 3. Project the total amount of money to be available from sources other than application fees, such as State appropriations or Federal grants, for the upcoming State fiscal year;**
- 4. Subtract the amounts in (b)2 and 3 above from the amount in (b)1 above. The remainder is the projected fee revenue shortfall for the upcoming State fiscal year; and**
- 5. Divide the projected fee revenue shortfall in (b)4 above by the total amount of revenue expected to be received from application fees in (b)2 above to determine the fee adjustment factor. The amounts of the adjusted application fees for the upcoming State fiscal year shall be obtained by increasing the existing fees by the fee adjustment factor.**

## CHAPTER 13

### FLOOD HAZARD AREA CONTROL ACT RULES

#### SUBCHAPTER 8. GENERAL PERMITS

##### 7:13-8.1 Standards applicable to all general permits

(a) - (b) (No change)

(c) Except for general permit 1, the application and review procedures for which are described at N.J.A.C. 7:13-8.3, an application for a general permit shall be submitted to the Department to the address listed in N.J.A.C. 7:13-1.1(f), and shall include the following:

1. – 3. (No change)
4. An application fee [of \$500.00] in accordance with N.J.A.C. 7:13-17[.1], except for general permit 6, which requires no application fee.

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(d) - (j) (No change)

(k) A verification of the flood hazard area design flood elevation, floodway limits, and/or riparian zone limits, pursuant to N.J.A.C. 7:13-6, is not required prior to obtaining a general permit authorization under this chapter, except for certain cases as noted under general permits 5, 6, and 7 at N.J.A.C. 7:13-8.7, 8.8, and 8.9, respectively. [However, pursuant to Table F at N.J.A.C. 7:13-17.1, the \$500.00 fee for a verification based on methods 1, 2, 3 and 5 (at N.J.A.C. 7:13-3.3, 3.4(d), 3.4(e) and 3.5, respectively) does not apply if the verification application is submitted concurrently with an application for any general permit authorization for which verification of the flood hazard area is required to determine compliance with the general permit.]

#### SUBCHAPTER 14. TRANSFER, SUSPENSION AND TERMINATION OF AN APPROVAL

##### 7:13-14.1 Transfer of an approval

(a) – (c) (No change.)

(d) An applicant seeking to transfer an approval to a new owner (or contract purchaser) shall submit [the following] to the Department[:

1. The application fee for a transfer as described at N.J.A.C. 7:13-17; and
2. A] a written request to transfer the approval, which includes the following:

Recodify existing i. – iv. as **1. - 4.** (No change in text.)

(e) – (f) (No change.)

#### SUBCHAPTER 15. APPLICATION REQUIREMENTS

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#### 7:13-15.1 General provisions

- (a) (No change.)
- (b) If a proposed project requires more than one approval from the Division of Land Use Regulation, the Department encourages, but does not require, the applicant to submit one consolidated application for all the approvals. For example, an applicant wishing to construct a private residence can use one application to simultaneously apply for both an individual permit under this chapter and a freshwater wetlands permit under N.J.A.C. 7:7A. If an application requests more than one approval, the combined application shall comply with the application requirements of each permit program. [A reduction in fees is also applied to joint applications as described at N.J.A.C. 7:13-17.1(e).]
- (c) – (f) (No change.)

### **SUBCHAPTER 17. APPLICATION FEES**

#### **7:13-17.1 Application fees**

- (a) **This subchapter establishes the application fees for:**
  - 1. **A verification, pursuant to N.J.A.C. 7:13-6;**
  - 2. **An authorization under a general permit pursuant to N.J.A.C. 7:13-8, except for:**
    - i. **General permit 1 for channel cleaning under the Stream Cleaning Act, N.J.A.C. 7:13-8.3; and**
    - ii. **General permit 6 for the reconstruction of a damaged or destroyed residence, N.J.A.C. 7:13-8.8;**
  - 3. **An individual permit pursuant to N.J.A.C. 7:13-9, 10, and 11; and**

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4. **A revision of a verification, authorization under a general permit, individual permit, or Department delineation pursuant to N.J.A.C. 7:13-13.**
- (b) **There is no application fee for:**
1. **An applicability determination pursuant to N.J.A.C. 7:13-5.1;**
  2. **A permit-by-rule pursuant to N.J.A.C. 7:13-7;**
  3. **An authorization under the following general permits:**
    - i. **General permit 1 for channel cleaning under the Stream Cleaning Act N.J.A.C. 7:13-8.3; and**
    - ii. **General permit 6 for the reconstruction of a damaged or destroyed residence, N.J.A.C. 7:13-8.8;**
  4. **An emergency permit pursuant to N.J.A.C. 7:13-12; and**
  5. **A transfer of an approval pursuant to N.J.A.C. 7:13-14.1.**
- (c) **All application fees shall be paid by money order, check (personal, bank, certified, or attorney) or government purchase order payable to the "Treasurer, State of New Jersey."**
- (d) **Any fee required under this chapter that is subject to N.J.A.C. 7:1L, Payment Schedule for Permit Application Fees, shall be payable in installments in accordance with N.J.A.C. 7:1L.**
- (e) **The fees for applications under this chapter are set forth in Table F below:**

**Table F**

**APPLICATION FEES**

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**Verification pursuant to N.J.A.C. 7:13-6**

	<b>Fee</b>
<b>Method 1 (Department delineation method; see N.J.A.C. 7:13-3.3)</b>	<b>\$1,000<sup>1</sup></b>
<b>Method 2 (FEMA tidal method; see N.J.A.C. 7:13-3.4(d))</b>	<b>\$1,000<sup>1</sup></b>
<b>Method 3 (FEMA fluvial method; see N.J.A.C. 7:13-3.4(e))</b>	<b>\$1,000<sup>1</sup></b>
<b>Method 4 (FEMA hydraulic method; see N.J.A.C. 7:13-3.4(f))</b>	<b>\$4,000 plus \$400.00 per each 100 linear feet of regulated water (or fraction thereof)<sup>2</sup></b>
<b>Method 5 (approximation method; see N.J.A.C. 7:13-3.5)</b>	<b>\$1,000<sup>1</sup></b>
<b>Method 6 (calculation method; see N.J.A.C. 7:13-3.6)</b>	<b>\$4,000 plus \$400.00 per each 100 linear feet of regulated water (or fraction thereof)<sup>2</sup></b>

**Authorization under a general permit pursuant to N.J.A.C. 7:13-8**

	<b>Fee</b>
<b>General permits 1 and 6</b>	<b>No fee</b>
<b>Any other general permit</b>	<b>\$1,000</b>

**Individual permit pursuant to N.J.A.C. 7:13-9 through 11**

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		Fee
<b>Individual permit for the construction of one private residence, which is not being constructed as part of a residential subdivision or multi-unit development, or for the construction of an addition or other structure appurtenant to a private residence</b>		<b>\$2,000</b>
<b>Base fee for any other individual permit</b>		<b>\$3,000</b>
<b>Additional review fee per project element<sup>1</sup></b>		
<b>Bank or channel stabilization, reestablishment, protection or modification project</b>	<b>Review of hydrologic, hydraulic, and/or flood storage displacement (net-fill) calculations required</b>	<b>\$4,000 plus \$400.00 per each 100 linear feet of regulated water (or fraction thereof)<sup>2</sup></b>
	<b>No review of calculations required</b>	<b>\$1,000 per project</b>
<b>Bridge, culvert, footbridge, low dam or other water control structure</b>	<b>Review of hydrologic, hydraulic and/or flood storage displacement (net-fill) calculations required</b>	<b>\$4,000 per structure</b>
	<b>No review of calculations required</b>	<b>\$1,000 per structure</b>
<b>Review of flood storage displacement (net-fill) calculations for any project not listed above</b>		<b>\$4,000</b>
<b>Review of a hardship exception request</b>		<b>\$4,000</b>
<b>Utility line</b>		<b>\$1,000 per crossing of</b>



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	<b>a regulated water</b>
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**Revision of a verification, general permit authorization, or individual permit**

**pursuant to N.J.A.C. 7:13-13.1 through 13.3**

	<b>Fee</b>
<b>Each major revision</b>	<b>30 percent of the original permit application fee or \$500.00, whichever is greater</b>
<b>Each minor revision</b>	<b>\$500.00</b>

**Revision of a Department delineation pursuant to N.J.A.C. 7:13-13.4**

	<b>Fee</b>
<b>Each major revision</b>	<b>\$4,000 plus \$400.00 per each 100-foot segment of regulated water (or fraction thereof) to be re-delineated<sup>2</sup></b>
<b>Each minor revision</b>	<b>\$500.00</b>

**Additional application fee stormwater review if a project is a “major development”**

**pursuant to Stormwater Management Rules (see N.J.A.C. 7:8-1.2)**

	<b>Fee</b>
<b>Base fee for any major development</b>	<b>\$3,000</b>
<b>Additional fee for review of groundwater recharge calculations (see N.J.A.C. 7:8-5.4)</b>	<b>\$250.00 per acre of land disturbed by the project (or fraction thereof)</b>

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<p><b>Additional fee for review of runoff quantity calculations (see N.J.A.C. 7:8-5.4)</b></p>	<p><b>\$250.00 per acre of land disturbed by the project (or fraction thereof)</b></p>
<p><b>Additional fee for review of water quality calculations (see N.J.A.C. 7:8-5.5)</b></p>	<p><b>\$250.00 per acre of impervious surface subject to water quality review (or fraction thereof)</b></p>
<p><b>Additional fee if project disturbs vegetation within a Special Water Resource Protection Area (see N.J.A.C. 7:8-5.5)</b></p>	<p><b>\$2,000</b></p>

<sup>1</sup> This fee does not apply for any application associated with the construction of one private residence, which is not being constructed as part of a residential subdivision or multi-unit development, or for the construction of an addition or other structure appurtenant to a private residence.

<sup>2</sup> The length of the regulated water shall be measured along its centerline. The length of a regulated water in which no channel is discernible shall be determined by measuring along the approximate centerline of the regulated water.

**7:13-17.2 Annual adjustment of fees**

(a) When, based on budget considerations, the Department determines to adjust the application fees established in this subchapter for the upcoming State fiscal year (which runs from July 1 to June 30), the Department shall:

1. Prepare an Application Fee Adjustment Report, in accordance with (b) below; and

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**2. Publish a notice of administrative change in the New Jersey Register that:**

- i. States that the Application Fee Adjustment Report is available on the Department's website at [www.nj.gov/dep/landuse](http://www.nj.gov/dep/landuse); and**
- ii. Sets forth the adjusted application fees determined as provided at (b) below.**

**(b) In the Application Fee Adjustment Report, the Department shall:**

- 1. Project the total amount of money required to fund the program in the upcoming State fiscal year. This projection shall consider the following:**
  - i. The number and type of Department staff required to perform each activity for which fees are charged and the projected total salaries of those staff for the upcoming State fiscal year;**
  - ii. The total cost of fringe benefits for those Department staff, calculated as the projected total salaries of those staff multiplied by a percentage set by the New Jersey Department of the Treasury that reflects costs associated with pensions, health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;**
  - iii. Indirect costs attributable to those Department staff, calculated as the total salaries and fringe benefits for those staff multiplied by a percentage known as the indirect cost rate. The indirect cost rate is negotiated annually with the U.S. Environmental Protection Agency and is the total of the Department's costs for management and administrative costs applicable to multiple cost objectives (including but not limited to, indirect management and administrative salary and non-salary costs, applicable fringe benefits, building**

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- rent, and the Department's share of the Statewide Cost Allocation Plan)**
- divided by total Department direct salaries plus applicable fringe benefits; and**
- iv. Projected operating costs attributable to those Department staff, including, but not limited to, costs for postage, telephone, travel, supplies, and data system management;**
- 2. Project the total amount of revenue expected to be received from application fees in the upcoming State fiscal year. This projection shall consider the following:**
- i. The number and type of applications received in previous State fiscal years;**
- ii. Any trend toward increasing or decreasing construction activities in regulated areas and such trend's impact, if any, on the number and type of applications anticipated for the upcoming State fiscal year;**
- iii. Other data concerning economic trends reasonably likely to influence the number and type of applications anticipated for the upcoming State fiscal year; and**
- iv. The application fees in effect at the time such projection is made;**
- 3. Project the total amount of money to be available from sources other than application fees, such as State appropriations or Federal grants, for the upcoming State fiscal year;**
- 4. Subtract the amounts in (b)2 and 3 above from the amount in (b)1 above. The remainder is the projected fee revenue shortfall for the upcoming State fiscal year; and**

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- 5. Divide the projected fee revenue shortfall in (b)4 above by the total amount of revenue expected to be received from application fees in (b)2 above to determine the fee adjustment factor. The amounts of the adjusted application fees for the upcoming State fiscal year shall be obtained by increasing the existing fees by the fee adjustment factor.**