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## **ENVIRONMENTAL PROTECTION**

### **WATERSHED AND LAND MANAGEMENT**

#### **Coastal Zone Management Rules**

#### **Freshwater Wetlands Protection Act Rules**

#### **Flood Hazard Area Control Act Rules**

**Proposed Amendments: N.J.A.C. 7:7-1.6, 2.2, 2.4, 2.5, 3.3, 12.9, 19.2, 23.2, 23.3, 23.4, 23.5, 23.6, 24.3, 25.1, 26.2, 26.3, 26.5, 26.7, 26.10, 27.3, 27.6, and Appendix G; 7:7A-1.3, 1.4, 2.6, 5.3, 7.1, 7.24, 7.25, 7.1, 7.24, 7.25, 16.2, 16.3, 16.4, 16.6, 16.7, 16.8, 16.9, 16.10, 17.3, 18.1, 19.2, 19.4, 19.8, 19.11, 20.4, and 20.7; and 7:13-1.2, 1.3, 2.1, 2.5, 3.7, 6.3, 6.7, 7.24, 7.25, 9.1, 11.6, 18.2, 18.3, 18.4, 19.3, 20.1, 21.2, 21.3, 21.5, 21.8, 22.3, and 22.6**

#### **Proposed New Rules: N.J.A.C. 7:13-18.5 and 18.6**

Authorized By: Catherine R. McCabe, Commissioner, Department of Environmental Protection.

Authority: As to N.J.A.C. 7:7: N.J.S.A. 12:3-1 et seq., 12:5-3, 13:1D-1 et seq., 13:1D-9 et seq., 13:1D-29 et seq., and 13:9A-1 et seq.;

As to N.J.A.C. 7:7A: N.J.S.A. 13:9B-1 et seq., and 58:10A-1 et seq.; and

As to N.J.A.C. 7:13: N.J.S.A. 13:1D-1 et seq., 13:1D-29 et seq., 13:20-1 et seq., 58:10A 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.

DEP Docket Number: 03-20-07.

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Proposal Number: PRN 2020-078.

The Department anticipates holding a **public hearing** on this notice of proposal. The date and time of the hearing will depend on circumstances surrounding the COVID-19 public health emergency. If the Department holds a hearing, the public comment period will be extended until after the hearing.

Further information on a public hearing, if one is held, will be posted on the Department's website at [www.nj.gov/dep/rules/notices.html](http://www.nj.gov/dep/rules/notices.html) at least 15 days prior to the date of the hearing. Notice will also be sent to those who have subscribed to the Department's rulemaking listserv. To subscribe, go to [www.nj.gov/dep/rules/subscribe.html](http://www.nj.gov/dep/rules/subscribe.html).

Written comments may also be submitted at the public hearing, if one is held. It is requested (but not required) that anyone providing testimony at the public hearing submit a copy of any prepared text to the stenographer at the hearing.

Submit comments by October 2, 2020, electronically at: <http://www.nj.gov/dep/rules/comments>. The Department of Environmental Protection (Department or DEP) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Gary J. Brower, Esq.

Attn.: DEP Docket No. 03-20-07

Department of Environmental Protection

Office of Legal Affairs

Mail Code 401-04L

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PO Box 402

401 East State Street, 7th Floor

Trenton, NJ 08625-0402

This 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 is providing a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30- 3.3(a)5.

The Department is proposing amendments and new rules in the Coastal Zone Management (CZM) Rules, Freshwater Wetlands Protection Act (FWPA) Rules, and Flood Hazard Area Control Act (FHACA) Rules to require electronic submission of applications for all general permit authorizations, individual permits, water quality certificates, freshwater wetland transition area waivers, and any flood hazard area verifications that are submitted in conjunction with an application for a general permit authorization, individual permit, or transition area waiver.

In 2015, 2016, and 2018, the Department undertook rulemakings that aligned the operations of the land use permitting programs administered by the Division of Land Use Regulation. This alignment involved streamlining functions, re-engineering business processes, and leveraging technology to eliminate unnecessary paperwork, share applications and forms across the Department, and increase the use of electronic submittals. Specifically, the rulemakings standardized the rules governing the process for obtaining a permit across the CZM, FWPA, and FHACA Rules to the extent possible and

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organized the rules in a uniform order and format to facilitate electronic submittals.

The Department has also continued to develop services within its electronic submission system, NJDEP Online. Each service allows a specific task to be completed electronically. In 2011, online services became available for each general permit-by-certification with electronic submissions mandatory for these applications. Another service was created in 2015-2016 for the elective submission of online applications for freshwater wetlands letters of interpretation (E-LOIs). A new “Apply for a Land Use Permit or Authorization” service (referred to hereinafter as the “new online service” or “new service”) is now available for the electronic submission of any application for a land use general permit, individual permit, water quality certificate, and/or freshwater wetland transition area waiver submitted pursuant to the CZM, FWPA, or FHACA Rules. Electronic submission of these applications is currently optional.

However, to further the Department’s initiative to transition to paperless processes, this rulemaking mandates electronic submittals for these applications through the new service. Other amendments will further streamline the rules and achieve greater consistency after the alignment of the permitting process rules and clarify some existing application requirements to facilitate the submission of complete applications.

A detailed summary of the proposed changes is provided below, organized by topic.

### **Stakeholder Outreach**

The Department conducted three stakeholder meetings on July 18, 2017, September 25, 2017, and February 26, 2018, to seek input during the development of the new online application submission service for all general permits, individual permits, water quality certificates, freshwater wetland

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transition area waivers, and accompanying flood hazard area verifications under the CZM, FWPA, and FHACA Rules. Attendees included representatives from various entities that routinely submit applications for the above permits and authorizations. Topics discussed included common deficiencies in the required application materials submitted for these permits and authorizations that result in applications being declared administratively and/or technically incomplete, questions regarding the fee calculation and payment processes for electronic submissions, and the process for submitting revisions to online applications. As a result of these meetings, the Department was able to address most of the areas necessary to ensure that complete applications were submitted, by including specific questions in the online service to guide applicants to provide the necessary information and/or attachments. The Department also revised the stormwater section of the service, which identifies whether stormwater management calculations and/or analyses are necessary and determines the necessary fees for the review of stormwater calculations where applicable, to ensure the section was compliant with the Stormwater Management (SWM) rules at N.J.A.C. 7:8. The Department also developed an application revision service to allow applicants to address deficiencies and to submit supplemental information electronically.

On April 4, 2018 and June 15, 2018, the stakeholders were invited to test the service and provide feedback. Some minor changes were made as a result of the feedback that was received during testing.

The general public was granted access to the online service on May 1, 2019, to provide a trial period during which applicants could choose whether to apply electronically or by hard copy. This trial period affords the public the opportunity to become familiar with the service and has given the Department the opportunity to address technical issues.

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### **Mandatory Electronic Submission of Applications**

As discussed above, the Department has developed and begun to implement a new online service for the electronic submission of all applications for general permits, individual permits, water quality certificates, freshwater wetland transition area waivers, and flood hazard area verifications that are submitted with an application for a general permit, individual permit, or transition area waiver under the CZM, FWPA, and FHACA Rules. Under the proposed amendments, all application materials for these approvals are required to be submitted in an electronic format through this service.

The transition to the mandatory submission of online applications will improve the efficiency of the application process for the Department, applicants, and consultants, increase transparency for the general public, reduce costs, and provide an environmental benefit. Preparing and printing paper applications results in significant consumption of environmental resources that will be greatly reduced by mandating online applications. Furthermore, paperless applications will spare applicants and consultants the costs associated with printing and delivering multiple copies of application materials and save the Department the costs associated with storing paper applications. An electronic submission process will also eliminate the problems associated with misplaced applications and permit files.

To ensure the Department and applicants receive the benefits of an entirely paperless process, the Department developed a separate, optional online revision service that allows applicants to address deficiencies to pending online applications and to supplement their application with required documents and proofs. For example, where an application requires a mitigation proposal, which the rules allow to be submitted up to 90 calendar days after the permit application, the proposed amendments allow the mitigation proposal to be submitted either concurrently with the permit

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application through the online submission service or subsequently through the revision service within 90 calendar days. The revision service also allows for the electronic submission of proof that the required newspaper notice for individual permits under the Coastal Area Facility Review Act (CAFRA) has been published. Consistent with the current requirements under the CZM Rules, which implement CAFRA, as well as the Wetlands Act of 1970 and the Waterfront Development Act, such proofs may be submitted to the Department up to 10 calendar days after the application has been submitted. Any information necessary to demonstrate conditional compliance after an authorization or permit has been issued, such as a recorded conservation restriction, may also be submitted to the Department electronically through the revision service.

All documentation submitted electronically either as part of the application or as a revision will be stored in the Department's database, the New Jersey Environmental Management System (NJEMS), which has been enhanced to accommodate online applications and to allow for a paperless review process.

In addition to reducing costs, consumption of environmental resources, and errors associated with paper applications, the online service will reduce processing times by helping to ensure that applications submitted through the service are administratively and technically complete. The service instructs applicants on how to upload and/or enter all information necessary to demonstrate a project's compliance with the CZM, FWPA, and FHACA Rules, as well as the SWM rules based upon the selected permit type(s) and the applicant's answers to questions about the project and site location. For example, currently, many paper applications for general permits and individual permits in the CAFRA area are deemed technically incomplete because the applicant has neglected to include the necessary analysis that demonstrates how the project meets the requirements of Section 10 of CAFRA, N.J.S.A. 13:19-10. To diminish the likelihood that this analysis will be missing from an application submitted

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through the online service, the system requires applicants for a CAFRA general permit or individual permit to identify the name of the report submitted as part of the application that contains the Section 10 analysis and the page number where the analysis can be found.

The service is organized into several screens or pages, each serving a specific purpose, such as uploading attachments. On the attachments page, a list of applicable attachment types, such as site plans, will appear based on the type(s) of permit selected and the applicant's responses to the questions posed earlier in the service. Some of the attachments in this list will be mandatory, meaning the applicant will need to select the named attachment to upload a document under that attachment type in order to proceed with submitting the application. Other attachments that are not required for every application will be optional. As the information submitted on the attachments page may be incomplete and/or inaccurate, Department staff will continue to review all applications for both administrative and technical completeness. However, the prompts provided in the service will increase the likelihood that applications will be complete upon submission, which will reduce the time spent addressing deficiencies.

Through NJEMS, the entire application will be easily accessible to all Department staff, facilitating collaboration to further reduce processing times. By storing all application materials electronically in NJEMS, the entire application will also be readily available to the general public through the Department's online reports portal, NJDEP Dataminer, which the Department is currently enhancing to provide the public with access to most components of the application in pdf format.

Finally, mandatory online application submissions will allow the Department to capture accurate metrics to more easily track and quantify cumulative environmental impacts, such as acres of impacted wetlands and riparian zones throughout the State.



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To facilitate this initiative to mandate electronic submission for most applications, this rulemaking includes the following amendments to application submission procedures, application requirements, and application review procedures.

**Application Submission Procedures** (N.J.A.C. 7:7-1.6, 3.3, 23.2, 23.3, 23.4, and 25.1; 7:7A-1.4, 5.3, 7.1, 7.24, 7.25, 16.2, 16.4, 16.6, 16.7, and 18.1; and 7:13-1.3, 6.3, 9.1, 18.2, 18.3, 18.4, 18.5, and 20.1)

The Department is amending all three chapters to clearly distinguish the types of applications that must be submitted electronically from those that must be submitted in hard copy by mail, hand delivery, or courier service. Electronic submission will be required for all applications for general permits and general permits-by-certification, individual permits, water quality certificates, and freshwater wetland transition area waivers. When submitted with an application for a general permit, individual permit, water quality certificate, or freshwater wetland transition area waiver, applications for flood hazard area verifications must also be submitted electronically. Applications for flood hazard area verifications submitted independently from one of these types of applications must be submitted in hard copy. Due to the complexity of the new online service, which allows for the submission of 117 types of applications, the Department limited the scope of the service to the submission of applications for regulated activities. As verifications only determine the limits of regulated areas and do not authorize any activities, they were not included in the service. However, verifications are an application requirement for several general permits, such as general permit 6 under the FHACA Rules, and applications for verifications are also frequently submitted in conjunction with other

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permit applications that require a determination of the floodway and/or flood hazard area, such as flood hazard area individual permits. Therefore, the new online service was designed to allow submission of applications for verifications that accompany an application for a general permit, individual permit, water quality certificate, or transition area waiver to ensure that applicants would be able to submit a complete application. The Department plans to develop a separate service for stand-alone verifications as part of its continuing initiative to transition to paperless processes.

All other types of applications, including applications for extensions, transfers, or modifications of permits; applicability determinations under the FHACA or CZM Rules; exemptions to the CZM or FWPA Rules; revisions of Department delineations under the FHACA Rules; and requests for reconsideration of a rule under the CZM Rules, cannot be submitted online at this time and must continue to be submitted in hard copy, with the exception of freshwater wetlands letters of interpretation (LOIs), which may still be submitted either in hard copy or electronically.

To reflect the Department's goal of establishing an entirely paperless process for most applications in order to achieve the benefits described above in this rulemaking, all three chapters will also stipulate as part of the chapter's general provisions that the Department will not accept an application submitted in hard copy for any of the application types for which electronic submission is required. Such applications will not be deemed to have been received for the purposes of calculating application review deadlines or other time periods under the applicable chapter.

The Department is also removing the word "permitting" from references to "the online

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permitting system” or “the electronic permitting system” in all three chapters in order to accurately describe the Department’s online system, which includes services that are not for the submission of a permit application, such as Land Use’s E-LOI service. For clarity, references to “the portal” in the submission procedures for E-LOIs in the current FWPA Rules are also being replaced with “the online system” or the “online service,” as applicable.

Additional amendments proposed to the submission procedures clarify that fees for all online applications, including general permits-by-certification and E-LOIs, must be submitted through the applicable online service by credit card or e-check. However, applicants utilizing the new online service to submit applications for general permit authorizations, individual permits, water quality certificates, transition area waivers, and accompanying flood hazard area verifications may opt to receive a bill in lieu of remitting payment directly through the service. Application fees for applications that cannot be submitted through an online service shall continue to be paid by money order, check, or government purchase order made payable to the “Treasurer, State of New Jersey” and submitted to the Department. For additional clarity, the fee submission requirements have been consolidated in the subchapters on application fees at N.J.A.C. 7:7-25.1, 7:7A-18.1, and 7:13-20.1 and are deleted from the general provisions at 7:7-1.6, 7:7A-1.4, and 7:13-1.3.

As the Department has built one inclusive online service to accommodate the submission of all applications for authorizations under general permits, individual permits, water quality certificates, freshwater wetland transition area waivers, and accompanying flood hazard area verifications, where multiple approvals are necessary under one or more of the three chapters, applicants may continue to submit a single application through the new online service. For example, as was possible with paper applications, an applicant may submit a single

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online application for both a freshwater wetlands general permit authorization and a flood hazard area individual permit. However, applications for general permits-by-certification and LOIs cannot be submitted through the new mandatory service as separate online services were previously developed for these application types. Since online applications for LOIs must be submitted through a separate service, the general application requirements are being modified to clarify that a separate application will now be required for an LOI when an applicant is applying for an approval through the new online service. For example, an applicant who wishes to obtain an LOI and a coastal wetlands individual permit will need to submit two separate applications.

However, for applications for general permit authorizations at N.J.A.C. 7:7A-16.8(b) and for individual permits at N.J.A.C. 7:7A-16.9(b), the requirement to include either a line delineation LOI, a line verification LOI, or all of the information necessary to obtain a line delineation or line verification LOI is not affected by this rulemaking, meaning that a separate LOI application is not necessary to meet the requirement. For example, where a freshwater wetlands general permit is necessary, but an LOI has not already been obtained, the applicant only needs to submit the application for the general permit through the online service, provided that the application includes all of the information required for the LOI.

### **Application Requirements**

*Format Requirements for Online Applications* (N.J.A.C. 7:7-23.2, 23.4, and Appendix G; 7:7A-7.1, 7.24, 7.25, 16.2, and 16.7; and 7:13-9.1, 18.2, and 18.4)

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The new online service requires the applicant to enter certain information directly into the service, such as site location and contact information, while other required information, such as site plans and reports, must be uploaded in a digital format as an attachment.

Amendments to N.J.A.C. 7:7-23.4; 7:7A-7.1, 7.24, 7.25, and 16.7; and 7:13-9.1 and 18.4

distinguish the information that must be provided within the service from the necessary digital document attachments. The amended sections have been modeled after N.J.A.C. 7:7A-16.4, Application requirements for an E-LOI, which likewise requires applicants to enter information directly into the service and to upload digital attachments.

The Department will continue to provide a checklist for each type of application in accordance with N.J.A.C. 7:7-23.2(a), 7:7A-16.2(a), and 7:13-18.2(a). The checklists for applications that must be submitted through the new online service have been modified to identify all documents that must be uploaded as an attachment along with the acceptable file formats for each attachment. The Department has also developed a list of specifications for site plans submitted electronically, including a requirement for a digital signature and seal. These site plan specifications, available at [https://nj.gov/dep/landuse/download/lur\\_041.pdf](https://nj.gov/dep/landuse/download/lur_041.pdf), will replace those requirements that are applicable only to paper site plans, such as the required number of copies of the plan and how the plan should be folded. Since site plans will need to be in a digital format for submission through the new online service, all references to requirements applicable only to paper site plans are proposed to be deleted from the rules.

*Application Forms* (N.J.A.C. 7:7-2.2, 2.4, 19.2, 23.4, 27.3, and 27.6; N.J.A.C. 7:7A-7.1, 7.24, 7.25, 16.7, 20.4, and 20.7; and N.J.A.C. 7:13-2.5, 3.7, 9.1, 18.4, 22.3, and 22.6)

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A completed application form, which provides basic information about the applicant and the project, including site location, contact, and fee information, is currently required for all applications for general permit authorizations, individual permits, transition area waivers, and flood hazard area verifications. Since most of the information required by this form is captured within the new online service, the Department is deleting this requirement for these types of approvals, except for applications for flood hazard area verifications that must be submitted in hard copy.

The CZM, FWPA, and FHACA Rules each include a description of the application form at N.J.A.C. 7:7-23.4, 7:7A-16.7, and 7:13-18.4, respectively. Since the application form requirement will be deleted from these sections for the reason explained above, the descriptions are being relocated to N.J.A.C. 7:7-27.3, 7:7A-20.4, and 7:13-22.3, respectively, which provide the requirements for applications for extensions. Extensions are the first type of approval contained in all three chapters for which a paper application form is still required. Relocating the descriptions to this section in each rule will maintain consistency across the chapters. All cross-references to the application form are also being amended accordingly.

As the paper application form requires certifications and signatures from the applicant and property owner, which cannot be provided directly through the online service, the Department has created a new Property Owner Certification form that must be completed and signed by all applicants and other persons who are required to certify to the application in accordance with N.J.A.C. 7:7-23.2(d), 7:7A-16.2(d), and 7:13-18.2(d), respectively, and uploaded to the new online service as an attachment. This attachment is mandatory for all applications submitted through the service, which means that the applicant will not be able to submit the

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application until the form has been uploaded. To consolidate forms for land use applications, this new form will also replace the existing Property Owner's Certification form for E-LOIs. All three chapters are being amended to require this form for applications submitted through the new online service and through the E-LOI service. The form is available on the Division of Land Use Regulation's website at <https://www.nj.gov/dep/landuse>.

The contact information for the applicant, property owner, and the designated agent as currently required on the application form must be provided within the new online service. To aid in the goal of increasing transparency, the service also requires all applicants to enter the contact information, including an email address, for the municipal clerk for the municipality in which the proposed project will be located. The Department will notify the municipality through the email address provided by the applicant when applications are submitted and approved and during any other milestones during the application process, such as a public hearing or public comment period. To facilitate this notification, the Department is adding an application requirement to the rules for all general permit authorizations, individual permits, transition area waivers, and accompanying flood hazard area verifications to include the municipal clerk's contact information.

*Public Notice* (N.J.A.C. 7:7-23.4 and 24.3; 7:7A-7.1, 7.24, 7.25, 16.7, and 17.3; and 7:13-18.4 and 19.3)

Applications are frequently deemed administratively incomplete because public notice has not been provided in accordance with the rules or because the applicant has failed to provide the Department with the required documentation related to the notice. As one of the goals for the new online service is to ensure applications are administratively complete upon submission, the Department

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has created a new Public Notice form that includes a series of questions and checkboxes designed to confirm that the applicant has provided all required public notice for the specific application and project type(s) and submitted all required documentation, such as copies of letters and mailing receipts, which must be attached to the form and uploaded to the online service. Like the Property Owner Certification form, the Public Notice form and accompanying documentation is a mandatory attachment within the service. The Department is amending all three chapters to require this form for applications that must be submitted through the new online service, except for applications that are solely for general permit 1 under the FHACA Rules, for which public notice is not required in accordance with the Stream Cleaning Act, N.J.S.A. 58:16A-67 et seq. The Public Notice form is available on the Division of Land Use Regulation's website at <https://www.nj.gov/dep/landuse>.

The CZM, FWPA, and FHACA Rules all require the applicant to provide a copy of the entire application to the municipal clerk in each municipality within which any portion of the site that is the subject of the permit application is located. As there will not be a paper application to copy for applications submitted electronically, amendments are proposed at N.J.A.C. 7:7-24.3, 7:7A-17.3, and 7:13-19.3 to specify the information that must be provided to the municipal clerk(s) for applications submitted through the online service. Particularly, where the rules require an applicant to provide a copy of the entire application as part of the public notice, for online submissions the proposed amendments specify that the applicant must provide the municipal clerk with a description of the project, the specific permit(s) and/or authorizations being sought, and all items that are required to be uploaded to the online service, including all required items on the appropriate application checklist, such as reports and site plans. Since the applicant is required to provide contact information for the municipal clerk as part of the online application, the Department will also email all of the information



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entered into the online service to the municipal clerk upon submission of the application, except for attachments.

Under the current CZM Rules at N.J.A.C. 7:7-24.3(f), applicants applying for a waterfront development individual permit to install a submarine cable in the ocean or to perform sand mining in the ocean must submit a copy of the completed application form to certain fishery representatives. Likewise, under the FHACA Rules at N.J.A.C. 7:13-19.3(f), applicants applying for a general permit or individual permit for a project or activity located within the Pinelands Area must submit a copy of the completed application form to the New Jersey Pinelands Commission. As the application form is no longer required for application types that must now be submitted online, in these instances, applicants will instead be required to provide a description of the project and the specific permit(s) and/or authorizations(s) being sought. For submissions to the New Jersey Pinelands Commission, the description must include the lot, block, municipality, and county where the project will take place. For applications for flood hazard area verifications that must be submitted in hard copy, applicants will continue to submit the completed application form to the Commission.

*Compliance Statements, Environmental Reports, and Environmental Impact Statements* (N.J.A.C. 7:7-23.4, 23.5, and 23.6; 7:7A-7.25, 16.7, 16.8, 16.9, and 16.10; and 7:13-9.1, 18.4, 18.6, and 18.8)

Various applications under the CZM, FWPA, and FHACA Rules include a requirement that the application be supported by either a report or a statement that must include specific environmental analyses. For example, an environmental report is required for all individual permit applications submitted under the FWPA and FHACA Rules while the CZM Rules require an environmental impact statement for individual permit applications. The CZM Rules also require a compliance statement for all

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applications for general permit authorizations. To reflect these existing requirements, in addition to the Property Owner Certification form and the Public Notice form, the new online service includes, as a mandatory attachment, an environmental report with site location maps. Under this attachment name, the applicant must upload the applicable environmental report, environmental impact statement, or compliance statement. The applicable rule and the application checklist for the specific permit that is being sought provide guidance on the appropriate document to be submitted under this attachment name.

The purpose of the compliance statement for general permit authorizations under the CZM Rules is to describe the proposed regulated activities and their potential impacts, as well as to demonstrate that the proposed project meets the requirements of the specific general permit in addition to other requirements necessary for the Department to approve the project. Although similar information is required for applications for general permit authorizations under the FWPA and FHACA Rules and for applications for freshwater wetland transition area waivers, the necessary information is not codified under a single application requirement, such as a compliance statement. Therefore, to facilitate the submission of applications through the new online service, as well as for clarity and consistency across the chapters, the Department is proposing to amend the FWPA and FHACA Rules to add a requirement for a compliance statement for general permit authorizations and transition area waivers. However, this requirement does not apply to freshwater wetlands general permit 1 where the activity is the ongoing maintenance of a stormwater management facility created in uplands or to freshwater wetlands general permit 24 for the repair of malfunctioning septic systems, for reasons that are explained later in this notice of proposal Summary under the discussion of new application requirements for freshwater wetlands general permits 1 and 24.

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For general permit 1 under the FHACA Rules for channel cleaning under the Stream Cleaning Act and for general permit 25 under the FWPA Rules for minor channel or stream cleaning for local government agencies, the compliance statement must incorporate the existing requirements for the classification of the affected portion of the channel or stream under the Department's Surface Water Quality Standards, N.J.A.C. 7:9B; a description of the nature of the project; a description of the proposed methods that will be used to remove material from the channel or stream and the location where the dredged material will be placed; as well as a certification signed by the county or municipal engineer, or an engineer employed by the local Soil Conservation District, that lists each requirement of the general permit that applies to the project and states how the requirement has been, or will be, satisfied. The compliance statement for general permit 25 must also include a demonstration that the proposed activity satisfies the requirements of N.J.A.C. 7:7A-5.7, Conditions applicable to an authorization pursuant to a general permit-by-certification or a general permit.

For all other general permit authorizations under the FHACA Rules, the Department is adding new N.J.A.C. 7:13-18.6, Compliance statement requirement for an application for authorization under a general permit. The compliance statement is required to describe the characteristics of the site, the potential impacts of the regulated activity or project, and any monitoring or reporting methods that will be used. The compliance statement must additionally include a demonstration that the proposed regulated activity or project satisfies the requirements of the applicable general permit, as well as the requirements of N.J.A.C. 7:13-6.7, Conditions applicable to a permit-by-rule or to an authorization pursuant to a general permit-by-certification or a general permit. Existing N.J.A.C. 7:13-18.6, Environmental report requirement for an application for an individual permit, is recodified as N.J.A.C. 7:13-18.8, with changes.

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Under the FWPA Rules, the compliance statement requirement has been added to existing N.J.A.C. 7:7-16.8, Additional requirements specific to an application for authorization under a general permit. The compliance statement is required to describe the characteristics of the site, the potential impacts of the regulated activity or project, and any monitoring or reporting methods that will be used. The compliance statement must additionally include a demonstration that the proposed regulated activity or project satisfies the requirements of the applicable general permit, as well as the requirements of N.J.A.C. 7:7A-5.7, Conditions applicable to an authorization pursuant to a general permit-by-certification or a general permit.

A compliance statement requirement has also been added at N.J.A.C. 7:7A-16.10 for transition area waivers. At this section, the compliance statement is required to include a demonstration that the proposed activity satisfies the requirements of N.J.A.C. 7:7A-8 and a description of the characteristics of the site, the potential impacts of the regulated activities, and any applicable monitoring or reporting methods.

Applicants are currently required to provide information regarding the anticipated impacts of the proposed activity or project, including any applicable monitoring and reporting methods that will be used, for applications for general permits, individual permits, and transition area waivers at N.J.A.C. 7:7-23.4(a)8, 7:7A-16.7(a)8, and 7:13-18.4(a)8. However, the Department has determined that this information should be included in the compliance statement, environmental report, or environmental impact statement and is, therefore, deleting the requirement from its existing location in each chapter and incorporating the necessary information into the compliance statement requirements at proposed N.J.A.C. 7:7-23.5, 7:7A-16.8 and 16.10, and 7:13-18.6, the environmental impact statement requirements at N.J.A.C. 7:7-23.6, and the environmental report requirements at N.J.A.C. 7:7A-16.9 and recodified N.J.A.C. 7:13-18.8.

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*Site Location Maps (N.J.A.C. 7:7-23.4; 7:7A-16.7; and 7:13-18.4)*

All application checklists for general permit authorizations, individual permits, and transition area waivers include a requirement that applicants provide site location maps, which are necessary for the Department to identify the project site. For this reason, site location maps were incorporated into the mandatory attachment for an environmental report.

However, the existing rules require site location maps only for flood hazard area general permit 1, freshwater wetlands general permit 1 where the activity is the ongoing maintenance of a stormwater management facility created in uplands, and freshwater wetlands general permits 24 and 25. For consistency with the checklists, and to ensure that applications submitted through the new online service are administratively complete, the Department is amending the application requirements provided in the rules for all other general permit authorizations, as well as all individual permits and transition area waivers, to include site location maps. Required maps include the tax map for the property, a copy of the portion of the county road map showing the property location, and a copy of the USGS quad map(s) that includes the site.

*New Application Requirements for Freshwater Wetlands General Permits 1 and 24 (N.J.A.C. 7:7A-7.1 and 7.24)*

In addition to the Property Owner Certification form, Public Notice form, and environmental report with site location maps, site plans, and photographs are mandatory attachments for all applications submitted through the new online service. Accordingly, the applicant will need to select each of these attachments from the list provided on the attachments screen and upload a document in

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order to proceed with the application. However, under the FWPA Rules, site plans and photographs are not currently required for applications for general permit 1 where the activity is the ongoing maintenance of an off-stream stormwater management facility created in uplands or for general permit 24 for malfunctioning individual subsurface sewage disposal (septic) systems. Since the applicant will not be able to submit the application without uploading a document under these attachment types, the Department is adding application requirements to the rules and amending the checklists to facilitate the online submission of applications for these two activities.

Photographs or other visual representations that illustrate existing site conditions provide information that is valuable for the review of a project without placing a significant burden on the applicant to obtain and are therefore now required under the rules for general permit 24 and for all activities under general permit 1. Requiring site plans, however, would place a significant burden on an applicant without providing additional information that is necessary for the review of these activities. Therefore, this rulemaking does not include a new requirement for site plans. Instead, the checklists have been amended to facilitate submission through the online service. Under the required attachment for site plans, the checklists instruct applicants to upload maps that are currently required in the FWPA Rules for these general permits – a regional map and tax map for applications for general permit 24 and a USGS quad map for applications for the ongoing maintenance of an off-stream stormwater management facility under general permit 1.

Since the applicant must upload these site location maps in lieu of site plans, providing the maps under the mandatory attachment for an environmental report with site location maps would be duplicative. Also, as these activities involve only the maintenance and repair of existing structures, the Department has determined that the information that would be provided in a compliance statement is already supplied through other required documents and requiring a separate compliance statement for

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upload under this attachment type would also be redundant. As a result, amendments to the rules and checklists were necessary to address the mandatory attachment of an environmental report for these activities.

Applications for the ongoing maintenance of an off-stream stormwater management facility under general permit 1 are currently required to include a copy of the permit authorizing the original construction of the facility if such a permit is available. The checklist has been modified to instruct applicants to upload this permit in lieu of the environmental report in the online service. However, where such a permit is not available, the rules and checklist have been amended to require a description of the stormwater management facility, which likewise may be uploaded in place of the environmental report. As with photographs, this description could provide helpful information for the review of the project without placing undue burden on the applicant. For general permit 24, amendments to the rules were not necessary, but the checklists have been amended to direct the applicant to upload the required description and plan of the activities and the letter from the local board of health with jurisdiction over the septic system under the attachment type for environmental report with site location maps.

*Conservation Restrictions* (N.J.A.C. 7:7-23.4; 7:7A-7.1, 7.24, 7.25, and 16.7; and 7:13-9.1 and 18.4)

All applicants who are currently submitting online applications are required to specify whether any portion of the site is subject to an existing conservation restriction. If the applicant answers in the affirmative, the online service requires the applicant to upload further information regarding the area restricted and the types of restrictions applicable to the area, as the specific limitations set forth in the conservation restriction may preclude the Department from approving an application to conduct a

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regulated activity on the restricted land or water area. Therefore, the Department must review all conservation restrictions on a site to determine if the proposed activity qualifies for the authorization(s) or permit(s) being sought. To provide clarity with respect to this requirement as reflected in the online service, the Department is specifically adding a copy of all conservation restrictions that impact any portion of the site that is the subject of the application to the lists of application requirements at N.J.A.C. 7:7-23.4; 7:7A-7.1, 7.24, 7.25, and 16.7; and 7:13-9.1 and 18.4.

*State Plane Coordinates* (N.J.A.C. 7:7-23.4; 7:7A-16.7; and 7:13-18.4)

All applications for general permit authorizations, individual permits, transition area waivers, and flood hazard area verifications are currently required to include State plane coordinates to help the Department more precisely identify the location of the proposed project. All three chapters include rules governing how State plane coordinates are to be provided. For example, the coordinates must be accurate to within 50 feet of the center of the site unless the project is a delineation or a linear development. However, the new online service has been designed to help identify the appropriate State plane coordinates for the applicant based on the lot and block and/or site address provided in the application. Therefore, State plane coordinates have been included in the list of information necessary to identify the location of the proposed project in the online service, along with the address, lot, block, municipality, and county, but, since the system will guide identification of the applicable State plane coordinates, the specific rules governing how to provide those coordinates have been deleted from the CZM and FWPA rules for applications submitted online. However, for applications for flood hazard area verifications submitted in hard copy, the rules for how to provide State plane coordinates are retained at new N.J.A.C. 7:13-18.5, as described below.



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*Requirements for Flood Hazard Area Verifications (N.J.A.C. 7:13-18.4 and 18.5)*

Existing N.J.A.C. 7:13-18.4, currently headed “Additional application requirements for a verification, for an authorization under a general permit, or for an individual permit,” is being amended to require online applications, but not all applications for flood hazard area verifications may be submitted online. Therefore, the application requirements for verifications are being relocated to the N.J.A.C. 7:13-18.5, Additional application requirements for a verification, with the heading of N.J.A.C. 7:13-18.4, proposed to be amended to reflect that it contains additional application requirements for authorizations under a general permit or for an individual permit. For verifications submitted in conjunction with another application through the online service, proposed new N.J.A.C. 7:13-18.5(a) references the application requirements at amended N.J.A.C. 7:13-18.4(b) and (c), which provide the requirements for general permit authorizations and individual permits. The application requirements for verifications that must be submitted in hard copy, which the Department is proposing to relocate to new N.J.A.C. 7:13-18.5(b), are not affected by this rulemaking. As the Department is also adding new rules at N.J.A.C. 7:13-18.6 to require a compliance statement for applications for authorization under a general permit, as described above, existing N.J.A.C. 7:13-18.5 is being recodified as N.J.A.C. 7:13-18.7.

**Application Review Procedures** (N.J.A.C. 7:7-26.2, 26.3, 26.5, 26.7, and 26.10; 7:7A-19.2, 19.4, 19.8, and 19.11; and 7:13-21.2, 21.5, and 21.8)

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The existing rules require the Department to return any application for a general permit authorization, individual permit, flood hazard area verification, transition area waiver, or letter of interpretation that is administratively incomplete within 20 working days after receiving the application. However, since applications that are submitted online cannot be returned, this rulemaking includes amendments to the review procedures for online applications that are declared administratively incomplete. For consistency, the amendments also apply to applications for flood hazard area verifications and letters of interpretation that are submitted in hard copy. These review procedures are proposed to be revised to mirror the review procedures for technically incomplete applications to the extent possible.

Accordingly, within 20 working days after receiving the administratively incomplete application, this rulemaking requires the Department to notify the applicant in writing that the application is administratively incomplete, specifying the additional information required and the deadline by which that information must be submitted. The applicant must submit the additional information within 90 calendar days after the date of the Department's request, unless the Department specifies a different deadline. If the information is not received by the specified deadline, the Department will either cancel the application or extend the deadline if the applicant demonstrates good cause for the delay.

Within 15 days after receiving the additional information for an application that was declared administratively incomplete, the Department must determine if the application is both administratively and technically complete. If the Department determines that the application is either administratively or technically incomplete, it must notify the applicant, specifying the additional information required and the deadline by which the information must be submitted. If the application is both administratively and technically complete and is for a CAFRA individual permit, the Department must notify the applicant that the application is either complete for public comment or public hearing, effective the date the

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Department received the information. For all other application types, if the application is both administratively and technically complete, the Department must notify the applicant that the application is complete for review, effective the date the Department received the information.

If the Department does not take one of these actions within 15 calendar days after receiving the additional information for an administratively incomplete application, the rulemaking requires the application to be declared complete for public comment or public hearing if the application is for a CAFRA individual permit or complete for review for all other application types, effective as of the date the additional information was received by the Department.

The existing rules provide that the Department may issue a fee refund upon written request by the applicant for an application that is returned because it is not administratively complete. This provision is proposed to be amended to allow for the requested fee refund for an administratively incomplete application that has been withdrawn within 60 calendar days of its submittal to the Department and will apply to all applications regardless of whether they are submitted through the online service or in hard copy.

### **Additional Application Processing Amendments**

Although the Department previously amended the CZM, FWPA, and FHACA Rules to align the three chapters to the extent the enabling statutes would allow in order to provide as much consistency as statutorily permissible across the land use permitting programs, in evaluating the rules to allow for mandatory online submission of most land use applications, the Department identified several other amendments necessary to further streamline the rules and achieve greater consistency across the three chapters. Consequently, as part of this current rulemaking, the Department is proposing to incorporate

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the following additional amendments.

**Application Forms** (N.J.A.C. 7:7-2.5; 7:7A-2.6 and 20.4; and 7:13-22.3)

The Department currently utilizes a standard land use application form for all applications that must be submitted in hard copy, with two exceptions. Applications for applicability determinations under the CZM Rules require a separate application form, and applications for exemptions under the FWPA Rules do not require an application form.

To further streamline land use business processes, the Department is proposing to eliminate the separate form for applicability determinations under the CZM Rules and revise N.J.A.C. 7:7-2.5 to require the standard application form. This change is also consistent with the FHACA Rules, under which applicability determinations require the standard application form. Likewise, for consistency, the Department is adding a requirement that the standard application form be utilized for exemptions under the FWPA Rules to align the FWPA Rule requirements with the requirements for exemptions under the CZM Rules.

Under this rulemaking, the Department is also amending the descriptions of the application form that are currently provided in the FWPA and FHACA Rules, to make the descriptions consistent with the description provided in the CZM Rules. The purpose of the descriptions is to explain the types of information that must be provided on the form. In the CZM Rules, the description includes “the type of application being submitted” while the FWPA and FHACA Rules instead use the phrase “the types of approvals being sought.” Since the application form is necessary for applications that are not considered approvals, such as applications for applicability determinations, the Department has determined that the language in the CZM Rules is the most accurate and is proposing to amend the FWPA and FHACA

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Rules accordingly.

**Application Fees** (N.J.A.C. 7:7-25.1)

As reflected in Table A at N.J.A.C. 7:7-25.1(g), a fee is required for all applications for general permits-by-certification submitted under the CZM Rules, except for general permit-by-certification 1A for the installation of an elevated timber dune walkover. However, reference to general permits-by-certification as one of the types of application fees established at Subchapter 25 of the CZM Rules was mistakenly omitted from N.J.A.C. 7:7-25.1(a). Accordingly, the Department is proposing to correct this omission as part of this rulemaking.

**Statutory Consistency** (N.J.A.C. 7:7-2.2 and 7:13-21.3)

N.J.A.C. 7:7-2.2(a) defines the types of development for which a CAFRA permit is required based on the proximity of a particular development to the mean high water line of tidal waters, a beach, or a dune. The language of this subsection is intended to mirror that of N.J.S.A. 13:19-5. N.J.A.C. 7:7-2.2(a)5 sets forth when a CAFRA permit will be required for development located beyond 150 feet of the mean high water line of any tidal waters or the landward limit of a beach or dune. Through an inadvertent error, the word “beyond” was omitted from this provision. Accordingly, the Department is proposing to correct this error to make the language of the CZM Rules consistent with CAFRA at N.J.S.A. 13:19-5.e.

This rulemaking also includes amendments to the FHACA Rules to improve consistency with the Construction Permits Law, N.J.S.A. 13:1D-29 et seq. Existing N.J.A.C. 7:13-21.3 specifies how the

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Department processes and reaches a decision on an application for an authorization under a general permit, an individual permit, or a flood hazard area verification that is complete for review. This section includes timeframes within which a decision to approve or deny an application that is complete for review will be made and the consequences if the Department does not make a decision within the specified time periods. In accordance with the Construction Permits Law, the Department must determine if an application for approval of a structure or alteration within the area that would be inundated by the 100-year design flood of any nondelineated stream or of a change in land use within any delineated floodway or any State-administered and delineated flood fringe area meets the requirements of the FHACA Rules within 90 calendar days of declaring the application complete for review or the application shall be deemed to have been approved as of that deadline. However, the Construction Permits Law does not apply to flood hazard area verifications. While the Department continues to make every effort to meet the 90-day deadline for verification applications, it is not obligated by the Construction Permits Law to issue an approval if circumstances make it impossible for the Department to make a determination within 90 calendar days of declaring an application for a verification complete for review. Therefore, N.J.A.C. 7:13-21.3(c) is proposed to be amended to apply only to general permit authorizations and individual permits. N.J.A.C. 7:13-21.3(d) is also proposed to be amended to delete the requirement for the Department to provide notice of the decision on an application for a flood hazard area verification in the DEP Bulletin as such notice is not required by the Construction Permits Law. However, information regarding the decision will be available to the public through the Department's Dataminer service.

**Flood Hazard Area General Permit 1** (N.J.A.C. 7:13-9.1)

The Department is proposing to add and refine language at N.J.A.C. 7:13-9.1(d), which contains

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the application requirements for general permit 1 for channel cleaning under the Stream Cleaning Act, for consistency with freshwater wetlands general permit 25 for minor channel or stream cleaning for local government agencies. N.J.A.C. 7:7A-7.25(e) specifies that general permit 25 is “not subject to the application requirements at N.J.A.C. 7:7A-16.” Pursuant to N.J.A.C. 7:13-18.1, flood hazard area general permit 1 is likewise exempt from the application requirements subchapter of the FHACA Rules at N.J.A.C. 7:13-18; however, N.J.A.C. 7:13-9.1 does not contain language to that effect. Therefore, the Department is amending N.J.A.C. 7:13-9.1(d) to mirror the language included in the FWPA Rules at N.J.A.C. 7:7A-7.25(e).

In addition, the Department is expanding the language at existing N.J.A.C. 7:13-9.1(d)2 and 4, recodified as N.J.A.C. 7:13-9.1(d)2ii and iv, to refer to “the channel or stream” instead of “the channel” at existing N.J.A.C. 7:13-9.1(d)2 and “the stream” at existing N.J.A.C. 7:13-9.1(d)4. This broader terminology is consistent with the terminology used at existing N.J.A.C. 7:13-9.1(d)3, 5, 6, and 8 (proposed to be recodified as N.J.A.C. 7:13-9.1(d)2iii, v, vi(1), and vi(3), respectively), as well as with the terminology used in freshwater wetlands general permit 25 at N.J.A.C. 7:7A-7.25(e).

Lastly, the Department is deleting the portion of existing N.J.A.C. 7:13-9.1(d) that provides that photocopies of maps and documents may be submitted as part of an application for this general permit as the application checklist is the more appropriate location for information regarding acceptable formats for application materials.

#### **References** (N.J.A.C. 7:7-12.9 and Appendix G)

The Department is updating several references in the CZM Rules to reflect revisions to cited documents. The U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency published

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a final version of their Guidance for Performing Tests on Dredged Material Proposed for Ocean Disposal in 2016, which has replaced the 1992 draft previously cited in the dredged material disposal rules at N.J.A.C. 7:7-12.9 and in Appendix G, The management and regulation of dredging activities and dredged material in New Jersey's tidal waters. The Department is, therefore, updating both references to require applicants to utilize the final version of this document.

Appendix G also contains an outdated reference to 40 CFR 136 (1994), Appendix B, Revision 1.11, with respect to the requirement for minimum detection limit verification within the last two years for marine sediments and salt water matrices. A new revision, Revision 2, has been adopted by the Federal government, so the Department is updating this reference accordingly. The hyperlink provided for the reference has also been deleted as the website provided in the existing rules no longer exists.

**Definitions** (N.J.A.C. 7:7A-1.3 and 7:13-1.2, 2.1, and 2.5)

In an effort to be as consistent and concise as possible across the chapters, the Department is amending the language of the definition for "permit" in the FWPA Rules to align better with the more succinct definition provided for "coastal permit or permit" in the CZM Rules. The Department is also adding a definition to the FHACA Rules for the term "flood hazard area permit or permit." The definitions for "coastal permit or permit" under the CZM Rules and for "permit" under the FWPA Rules include both authorizations and permits, which allows the Department to utilize the more concise term "permit" throughout the rules to refer to all types of permits and authorizations, including general permits-by-certification, general permits, and individual permits. In the absence of such a definition in the FHACA Rules, either "permit or authorization" or "authorization or permit" are alternatively utilized throughout the chapter, particularly at N.J.A.C. 7:13-2, Applicability and Activities for Which a Permit or



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Authorization is Required. The new definition for “flood hazard area permit or permit” is modeled on the definition for “coastal permit or permit” under the CZM Rules and includes both permits and authorizations issued pursuant to the Flood Hazard Area Control Act. Amendments to Subchapter 2 reflect the incorporation of the new term. Likewise, the definitions for “freshwater wetlands permit” and “open water fill permit” in the FWPA Rules are also being amended to include authorizations, as well as permits that are issued under that chapter.

In addition, the Department is deleting the definition for “permit-by-rule” from the FHACA Rules and the definitions for “general permit,” “general permit-by-certification,” and “individual permit” from the FHACA and FWPA Rules. During the 2015 rulemaking that resulted in substantial amendments to the CZM Rules, the Department determined that these definitions were of limited value and, therefore, did not include the terms at N.J.A.C. 7:7-1.5. For similar reasons, the Department is proposing to delete them from N.J.A.C. 7:13-1.2 and 7:7A-1.3.

**Other Terminology** (N.J.A.C. 7:7A-16.6, 16.7, and 20; and 7:13-6.7, 18.2, and 18.3)

In addition to the amendments described above, the Department is including other amendments in this rulemaking to improve language and terminology in the FWPA and FHACA Rules.

N.J.A.C. 7:7A-16.6(b) and 7:13-18.3(b) provide the information that must be included in an application for a general permit-by-certification. The language was drafted to mirror the requirements in the CZM Rules at N.J.A.C. 7:7-23.3 and consequently includes the term “development,” which is a defined term under the CZM Rules in accordance with CAFRA and the Waterfront Development Law. However, as “development” is not a defined term under either the FWPA or the FHACA Rules, the Department is replacing this term with the term “regulated activity,” which is defined in both chapters.

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When the Department aligned the land use permitting process rules, it created a subchapter under each rule that includes the permit conditions and the rules governing extensions, modifications, transfers, suspensions, and terminations of authorizations and permits. (See 47 N.J.R. 1392; 48 N.J.R. 1067(a); and 49 N.J.R. 3849(a)) Although the contents of these subchapters are aligned in content and format, extensions were mistakenly omitted from the heading of the subchapter in the FWPA Rules, Subchapter 20, Permit and Waiver Conditions; Modification, Transfer, Suspension, and Termination of Authorizations and Permits. The heading is, therefore, being revised to include extensions, similar to the corresponding subchapter headings in the CZM and FHACA Rules, Subchapters 27 and 22, respectively.

This rulemaking also includes an amendment to change N.J.A.C. 7:13-6.7(a)2 from “the conditions that apply to conducting regulated activities under any authorization or permit set forth at N.J.A.C. 7:13-22.2” to “the conditions that apply to all permits at N.J.A.C. 7:13-22.2” to mirror the heading of N.J.A.C. 7:13-22.2, Conditions that apply to all permits. This amended language is also consistent with N.J.A.C. 7:7-3.8(a)2, which likewise requires all permits-by-rule and authorizations under general permits-by-certification and general permits to comply with the conditions that apply to all permits provided at N.J.A.C. 7:7-27.2. As this rulemaking does not include amendments at N.J.A.C. 7:13-22.2 and the new definition for “flood hazard area permit or permit” includes both permits and authorizations issued pursuant to the Flood Hazard Area Control Act, this change does not impact the applicability of N.J.A.C. 7:13-22.2.

In addition, the Department is making a correction at N.J.A.C. 7:13-18.2(i) to delete the reference to environmental impact statements, which are not required under the FHACA Rules.

Finally, the FWPA Rules at existing N.J.A.C. 7:7A-16.7(a)6 (proposed to be recodified as N.J.A.C. 7:7A-16.7(c)5) specify examples of possible visual representations that could be submitted as part of an application for a general permit authorization, an individual permit, or a transition area waiver to

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illustrate existing site conditions and the proposed activity or project. The list of examples includes maps as a possible visual representation that could be included in the application. However, similar provisions in the CZM Rules at N.J.A.C. 7:7-23.4(a)6 (proposed to be recodified as N.J.A.C. 7:7-23.4(c)5) and in the FHACA Rules at N.J.A.C. 7:13-18.4(a)6 (proposed to be recodified as N.J.A.C. 7:13-18.4(c)5) do not include maps. Therefore, for consistency between the chapters, the Department is proposing to add maps to the list of examples provided in the CZM and FHACA Rules.

### **Clarifications of Existing Application Requirements**

In addition to the amendments to application requirements necessary for the submission of applications through the new online service, the Department is proposing additional amendments to clarify certain existing application requirements. The following amendments are intended to help ensure that all applications are complete upon submission, regardless of the required method of submission.

**Applicability of General Application Requirements** (N.J.A.C. 7:7-23.3; 7:7A-7.1, 7.24, 7.25, 16.4, 16.6; and 7:13-9.1 and 18.3)

The CZM Rules (at N.J.A.C. 7:7-23.2), the FWPA Rules (at N.J.A.C. 7:7A-16.2), and the FHACA Rules (at N.J.A.C. 7:13-18.2) specify general application requirements applicable to all applications. Each rule also specifies additional application requirements that are applicable to particular types of applications to ensure that the appropriate level of information is provided depending upon the level of activity for which approval is sought. To emphasize that applications for which additional requirements are separately specified continue to be required to meet the general requirements at N.J.A.C. 7:7-23.2, 7:7A-16.2, and 7:13-18.2, the existing rules provide, at N.J.A.C. 7:7-23.4, 7:7A-16.7, and 7:13-18.4, a

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cross-reference to the general application requirements. These sections specify additional application requirements applicable to an authorization under a general permit, an individual permit, a transition area waiver, or a flood hazard area verification. The existing FWPA Rules provide an additional cross-reference to the general application requirements at N.J.A.C. 7:7A-16.3, Additional application requirements for an LOI. Under this rulemaking, the Department proposes to add a similar cross-reference at N.J.A.C. 7:7-23.3, 7:7A-16.6, and 7:13-18.3, which specify additional application requirements applicable to a general permit-by-certification under the respective chapters, and at N.J.A.C. 7:7A-16.4, which specifies additional application requirements for an E-LOI. The cross-reference is also proposed to be added to the application requirements provided at N.J.A.C. 7:7A-7.1, General permit 1 – Maintenance and repair of existing features, 7.24, General permit 24— Malfunctioning individual subsurface sewage disposal (septic) systems, and 7.25, General permit 25— Minor channel or stream cleaning for local government agencies; and 7:13-9.1, General permit 1 - channel cleaning under the Stream Cleaning Act.

**Calculations** (N.J.A.C. 7:7-23.2; 7:7A-16.2; and 7:13-18.2)

At N.J.A.C. 7:7-23.2(i), 7:7A-16.2(i), and 7:13-18.2(i), the Department requires a certification for any professional reports, surveys, calculations, or other documents submitted as part of an application that are prepared by a consultant, engineer, land surveyor, architect, attorney, scientist, or other professional. However, certain types of calculations may be performed only by an engineer or architect. Specifically, any stormwater management calculations, hydrologic calculations, hydraulic calculations, and flood storage displacement calculations necessary for an application must be performed by a New Jersey licensed professional engineer. Structural stability calculations, hydrostatic and hydrodynamic loading calculations, and flood-proofing calculations must be performed by either a New Jersey licensed

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professional engineer or architect. Therefore, the Department is clarifying N.J.A.C. 7:7-23.2(i) and 7:13-18.2(i) to specify the professional qualifications that must be possessed by an individual preparing and signing and sealing these specific types of calculations and to require a signature and seal on any such calculations in accordance with N.J.A.C. 13:40-8.1. N.J.A.C. 7:7A-16.2(i) is also proposed to be amended, but includes only stormwater management calculations since the other types of calculations are not necessary to demonstrate compliance with the FWPA Rules.

**Site Inspections** (N.J.A.C. 7:7-23.2 and 23.4; 7:7A-16.2, 16.3, 16.4, and 16.7; and 7:13-18.2 and 18.4)

To ensure a regulated activity or project is in compliance with the requirements set forth under the CZM, FWPA, and FHACA Rules, Department staff may need to perform inspections of the site. Therefore, all applications for authorizations under general permits-by-certification and general permits, individual permits, transition area waivers, flood hazard area verifications, and freshwater wetland letters of interpretation constitute consent from the property owner for the Department to perform site inspections in a reasonable manner and at a reasonable time. However, this requirement is not currently codified under the application requirements for general permits-by-certification, freshwater wetlands general permit 25, or flood hazard area general permit 1 for stream cleaning activities, freshwater wetlands general permit 24 for the repair of a malfunctioning septic system, or freshwater wetlands general permit 1 where the activity is the ongoing maintenance of a stormwater management facility created in uplands. Rather than adding the requirement to all of these sections, the Department is proposing to recodify the requirement from N.J.A.C. 7:7-23.4; 7:7A-16.3, 16.4, and 16.7; and 7:13-18.4 to the general application requirements at N.J.A.C. 7:7-23.2, 7:7A-16.2, and 7:13-18.2, which apply to all the applicable applications.

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### **Social Impact**

The proposed amendments and new rules are intended to further the Department's initiative to facilitate the electronic submission of applications and to continue to align the land use permitting rules. The proposed amendments and new rules are expected to have a positive social impact. Mandating online application submissions requires that all documentation pertaining to a permit application, including all reports and site plans, be stored in NJEMS. As a result, applications can be made easily accessible to the general public through Dataminer, fostering awareness of proposed development and environmental concerns within communities. In addition, the Department will spend fewer resources on electronic submittals because it does not require personnel to input into NJEMS, manually, the information from a paper submittal. Accordingly, more resources will be available to address the public's questions and concerns and to ensure compliance with the rules and the terms of the permit or authorization.

### **Economic Impact**

The Department designed, developed, tested, and rolled out an online service to facilitate implementation of mandatory electronic submissions. Considering the improved operational efficiencies resulting from a paperless system for permit application submittal, review, filing and retrieval, the Department expects to recover its investment cost within four years. The Department anticipates a beneficial reallocation of staff time equivalent to at least three dollars for every dollar spent for annual support and maintenance of its online service.

The proposed amendments and new rules mandating online applications are also expected to

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have a significant positive economic impact for applicants and consultants, who will benefit from a reduction in the costs associated with preparing and submitting applications. Each regulated activity must demonstrate compliance with the substantive standards of the CZM, FWPA, and/or FHACA Rules, which typically necessitates the procurement of large quantities of paper and other printing supplies, such as toner, in order to prepare a complete application, as well as the storage of that paper for any applicable record retention period.

The ability to submit applications and revisions online will eliminate almost all costs associated with printing, delivering, and retaining paper applications. Even the simplest of applications involves at least 20 sheets of paper while more complex projects may require hundreds of sheets to address all the applicable requirements. In addition, due to interagency review requirements, 10 copies of each application are necessary for a complete project review. The aggregate cost savings for businesses and residents submitting online applications, rather than applications printed on paper, could be minimally \$20,000 to more than \$250,000 annually. Additional savings are realized from eliminating paper storage, distribution, and retrieval; the cost of fully hosted cloud storage is estimated at one percent or less of the cost of retaining paper when considering the cost of filing cabinets and office space or storage boxes and offsite record storage. Significant expenses are often associated with delivering larger application packages to the Department. Additional printing and delivery costs are incurred where revisions to an application are necessary, particularly site plan revisions.

Applicants are also expected to receive additional economic benefits from the reduced processing times that will result from online applications and, thereby, avoid the costs associated with delaying development while waiting for a permit review to be completed. In contrast to applications submitted in hard copy, online submissions eliminate any time between the submission of the application to the delivery service (whether it be the U.S. Postal Service or a private carrier or courier)

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and its receipt by the Department. In addition, storing all documentation pertaining to a permit application, including all reports and site plans, in NJEMS will allow parallel collaboration between the Department, applicants, and other agencies to review applications and markup plans, share comments, and more quickly and easily identify potential conflicts and issues. The online service will also reduce processing times by immediately checking for administrative completeness and addressing common technical deficiencies. Applicants are instructed to upload and/or enter all necessary information based upon the selected permit type(s) and their answers to specific questions. The questions were designed to determine and request the information required to demonstrate a project's compliance with the rules.

As the online submission service requires a digital signature and seal on site plans and engineering reports and calculations, applicants and consultants are expected to incur an upfront expense associated with acquiring the necessary software, which will depend on the specific software selected and the number of licenses needed. However, these costs will be offset by the long-term savings on the expenses associated with printing and delivery. Also, other State agencies, such as the Department of Community Affairs, have also mandated e-plans for certain activities, so many consultants and local governments will already be equipped with this software.

All applicants will be required to submit applications electronically, including those who do not possess a computer, such as some single-family homeowners. However, the Department does not anticipate any negative economic impacts to these applicants since free access to computers is widely available at a variety of public institutions, such as public libraries. In addition, the Department is delaying the operative date of these amendments until one year after the notice of adoption is published in the New Jersey Register to provide potential applicants sufficient time to address any technological concerns.



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### **Federal Standards Statement**

The proposed amendments and new rules are not mandated by Federal law, and they do not exceed any Federal standards or requirements. The Federal Coastal Zone Management Act (P.L. 92-583) provides broad planning and management process guidelines for states developing coastal management programs at 15 CFR Part 923 but does not establish any regulatory standards. Therefore, the rulemaking does not exceed the standards of the Federal Coastal Zone Management Act.

The Department's authority to regulate activities in freshwater wetlands comes from the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., and the New Jersey Water Pollution Control Act, N.J.S.A. 58:10a-1 et seq. As provided in Section 404 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, the State of New Jersey has assumed the administrative responsibility to enact the Federal 404 program. Since the purpose of the proposed amendments and new rules is to improve the administrative process, this rulemaking does not exceed the standards of the Federal Water Pollution Control Act.

The Department's authority for regulating development within flood hazard areas and riparian zones comes solely from State statute, specifically, N.J.S.A. 58:16A-50 et seq., 58:10A-1 et seq., 58:11A-1 et seq., and 13:1D-1 et seq. The FHACA Rules are not promulgated under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements.

### **Environmental Impact**

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Requiring electronic submissions for most applications under the CZM, FWPA, and FHACA Rules is expected to have a significant beneficial impact on the environment. In 2016, 2017, and 2018, the Department received 2,971 applications, 2,861 applications and 2,984 applications, respectively, for land use permits and authorizations. Due to interagency review requirements, 10 copies of each application are necessary, resulting in the printing of nearly 30,000 application packets per year. Each application will require anywhere from 20 sheets of paper to hundreds of sheets, depending on the complexity of the proposed project. Additional paper must be expended where revisions to an application are necessary. By mandating an entirely paperless application submission and review process, the substantial environmental waste associated with the annual paper consumption that has been necessary for land use applications will be nearly eliminated. In addition, by requiring applications to be submitted online, a significant savings in greenhouse gas emissions is expected from eliminating the need for applicants and consultants to deliver applications to the Department. Finally, mandatory online application submissions will help the Department capture more accurate metrics, so that the environmental impacts from development, such as acres of disturbed wetlands and riparian zones, can be precisely tracked, quantified, and reported.

### **Jobs Impact**

The proposed amendments and new rules are intended to further the Department's initiative to facilitate the electronic submission of applications and to continue to align the land use permitting rules. The majority of the proposed amendments and new rules are minor and are not expected to have any impact on jobs in the State.

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### **Agriculture Industry Impact**

While the proposed amendments and new rules to mandate the electronic submission of applications and to continue to align the land use permitting rules are expected to have little impact on the agriculture industry as the rules allow many agricultural activities to proceed under permits-by-rule not requiring application to the Department if the limitations specified by the permit-by-rule are complied with, when an agricultural operation is required to submit an application for a permit or authorization under the CZM, FWPA, or FHACA Rules, the applicant should receive the same benefits shared by all applicants as discussed in the above Economic Impact Statement.

### **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 the proposed amendments and new rules to mandate the electronic submission of applications and to continue to align the land use permitting rules will not impose additional reporting or recordkeeping requirements on small businesses, nor increase the need for professional services. Instead, the amendments are anticipated to benefit all applicants, including "small businesses" as defined by the Regulatory Flexibility Act at N.J.S.A. 52:14B-17.

Applicants, including those considered small businesses under the Regulatory Flexibility Act, will experience reduced costs associated with submitting applications online as opposed to preparing, printing, and delivering applications to the Department. Online applications also result in shorter processing times, reducing the likelihood that a project will be delayed due to permit review. In addition, the online service will help ensure that applications are complete upon submission and provides applicants with the option to pay application fees electronically with credit card or e-check.

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### **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 and new rules to determine the impact, if any, on the affordability of housing. While the proposed amendments and new rules to mandate online application submissions and to continue the Department's effort to align the land use permitting rules are anticipated to provide benefits to all applicants that will have some positive impact on costs associated with obtaining permits and authorizations, the Department has determined that there is an extreme unlikelihood that the proposed amendments and new rules would evoke a change in the average costs associated with housing.

### **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 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 Department does not anticipate any impact as a result of this rulemaking.

### **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the

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State. Accordingly, no further analysis is required.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## CHAPTER 7

### COASTAL ZONE MANAGEMENT RULES

#### SUBCHAPTER 1. GENERAL PROVISIONS

7:7-1.6 Forms, checklists, information; Department address and website

(a) (No change.)

(b) Applications[, fees,] and other correspondence shall be submitted to the following addresses:

**1. For submittal of an application for authorization under a general permit or general permit-by-certification, for an individual permit, or a water quality certificate, the Department's website at <https://www.nj.gov/dep/online>; and**

**2. For correspondence or the submittal of an application for an exemption, applicability determination, request for the reconsideration of the application of a rule(s) in this chapter, or an extension, transfer, or modification of a permit:**

[1.] i. For regular mail:

New Jersey Department of Environmental Protection

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Division of Land Use Regulation

Mail code 501-02A, P.O. Box 420

Trenton, NJ 08625; **and**

[2.] ii. For hand delivery, courier service, and overnight mail:

New Jersey Department of Environmental Protection

Division of Land Use Regulation

501 East State Street

5 Station Plaza, Second Floor

Trenton, NJ 08609[; and].

[3. For submittal of an application for authorization under a general permit-by-certification, the Department's website at <https://www.nj.gov/dep/online>.]

(c) (No change.)

(d) Applications [or other materials] **for authorization under a general permit-by-certification, general permit, an individual permit, or a water quality certificate** sent or delivered to the Department [at an address other than those listed in (b) above] **by mail, hand delivery, or courier service** shall not be deemed to have been received for the purposes of calculating application review deadlines or other time periods under this chapter.

**(e) Applications identified at (b)2 above sent or delivered to the Department at an address other than those listed at (b)2i and ii above shall not be deemed to have been received for the purposes of calculating application review deadlines or other time periods under this chapter.**

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

### 7:7-2.2 CAFRA

(a) Subject to the interpretation and definition of certain statutory terms as provided at (b) below and subject to the exemptions identified at (c) below, a CAFRA permit shall be required for:

1. – 4. (No change.)

5. Except as otherwise provided **at (a)1, 2, 3, or 4** above, a development in the CAFRA area at a point **beyond** 150 feet landward of the mean high water line of any tidal waters or the landward limit of a beach or dune, whichever is most landward, that would result, either solely or in conjunction with a previous development in:

i. – iii. (No change.)

(b) – (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 chapter.

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

i. – iii. (No change.)

iv. A completed application form described at N.J.A.C. 7:7-[23.4(a)1]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6.

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

i. – iii. (No change.)

iv. A completed application form described at N.J.A.C. 7:7-[23.4(a)1]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6.

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

i. – v. (No change.)

vi. A completed application form described at N.J.A.C. 7:7-[23.4(a)1]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6.

#### 7:7-2.4 Waterfront development

(a) – (e) (No change.)

(f) Development that is exempt from the Waterfront Development Law 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 chapter.

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

i. A completed application form described at N.J.A.C. 7:7-[23.4(a)1]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6;

ii. – v. (No change.)



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

i. A completed application form described at N.J.A.C. 7:7-[23.4(a)1]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6;

ii. – v. (No change.)

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

i. A completed application form described at N.J.A.C. 7:7-[23.4(a)1]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6;

ii. – v. (No change.)

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

i. A completed application form described at N.J.A.C. 7:7-[23.4(a)1]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6;

ii. – v. (No change.)

5. For a written determination of exemption pursuant to (d)6 and 7 above, the following shall be submitted:

i. A completed application form described at N.J.A.C. 7:7-[23.4(a)1]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6;

ii. – ix. (No change.)

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6. For a written determination of exemption pursuant to (d)8 above, the following shall be submitted:

i. A completed application form described at N.J.A.C. 7:7-[23.4(a)1]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6.

ii. – iv. (No change.)

(g) – (h) (No change.)

#### 7:7-2.5 Obtaining an applicability determination

(a) (No change.)

(b) A person requesting an applicability determination shall submit to the Department, at the address set forth at N.J.A.C. 7:7-1.6, the following:

1. A completed [applicability determination/pre-application request] **application** form **described at N.J.A.C. 7:7-27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6, including a written description of the site and the proposed development including the dimensions, number, and uses of any proposed structures; the length of any proposed linear development; and the number of any parking spaces proposed;

2. – 3. (No change.)

SUBCHAPTER 3. GENERAL PROVISIONS FOR [PERMITS-BY RULE] **PERMITS-BY-RULE**, GENERAL [PERMITS-BY CERTIFICATION] **PERMITS-BY-CERTIFICATION**, AND GENERAL PERMITS

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7:7-3.3 Use of a permit-by-rule, or an authorization pursuant to a general permit-by-certification or a general permit to conduct regulated activities

(a) (No change.)

(b) An activity that meets the requirements of a general permit-by-certification may be conducted when the person proposing to conduct the activity receives the automatic authorization resulting from completion of the application submission through the Department's electronic [permitting] system in accordance with N.J.A.C. 7:7-5.

(c) – (d) (No change.)

## SUBCHAPTER 12. GENERAL WATER AREAS

7:7-12.9 Dredged material disposal

(a) (No change.)

(b) The standards relevant to dredged material disposal in water areas are as follows:

1. (No change.)

2. Disposal of dredged materials in the ocean and bays deeper than six feet is conditionally acceptable provided that there is no feasible beneficial use or upland placement site available and the disposal complies with the following, incorporated herein by reference, as appropriate to the proposed disposal site:

i. – iii. (No change.)

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iv. The U.S. Army Corps of Engineers-New York District and U.S. Environmental Protection Agency, Region II, [1992] **2016**. Guidance for Performing Tests on Dredged Material Proposed for Ocean Disposal, [Draft 18 December 1992] **April 2016**. This document is available on the web at [\[www.epa.gov/region02/water/dredge/testing.htm\]](http://www.epa.gov/region02/water/dredge/testing.htm) [https://www.epa.gov/sites/production/files/2016-10/documents/r2\\_rtm-april\\_2016.pdf](https://www.epa.gov/sites/production/files/2016-10/documents/r2_rtm-april_2016.pdf); and

v. (No change.)

3. – 6. (No change.)

(c) – (d) (No change.)

#### SUBCHAPTER 19. RELAXATION OF PROCEDURES; RECONSIDERATION OF APPLICATION OF RULES

##### 7:7-19.2 Reconsideration of the application of a rule(s) in this chapter

(a) – (g) (No change.)

(h) A complete request for the reconsideration of a rule(s) in this chapter under this section shall include the following items:

1. A completed application form, as described at N.J.A.C. 7:7-[23.4]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6, indicating a request for reconsideration and the type of permit being requested;

2. – 11. (No change.)

(i) – (m) (No change.)

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## SUBCHAPTER 23. APPLICATION REQUIREMENTS

### 7:7-23.2 General application requirements

(a) The Department provides a checklist for each type of application submitted under this subchapter. The checklist identifies all of the submissions required under the rules to be part of an application, and also the appropriate level of detail and the format of the information to be submitted for each type of application. For example, where the rules require, as part of an application, the submittal of [a site plan or] photographs showing certain types of information, the corresponding checklist will indicate, based on the type of development the particular permit covers, [the number of copies of the plan to be submitted, the scale and details of the information to be illustrated on the plan, and] the number and orientation of photographs of the location of the proposed development. [The checklist will also indicate that the plan should be folded or prepared in a certain manner to facilitate processing.] **Where the rules require the submittal of a site plan, the corresponding checklist will indicate, based on the type of development the particular permit covers, the scale and details of the information to be illustrated on the plan.** Checklists can be downloaded from the Department's website at <https://www.nj.gov/dep/landuse> or obtained by contacting the Department at the address set forth at N.J.A.C. 7:7-1.6.

(b) – (h) (No change.)

(i) Any professional report, survey, calculation, environmental impact statement, or other document prepared by a consultant, engineer, architect, surveyor, attorney, scientist, or other professional and submitted as part of an application shall be certified in accordance with (j) below. This certification is separate from the certification of the application by the applicant.

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**1. Stormwater management calculations, hydrologic calculations, hydraulic calculations, and flood storage displacement calculations shall be signed and sealed by a New Jersey licensed professional engineer.**

**2. Structural stability calculations, hydrostatic and hydrodynamic loading calculations, and flood-proofing calculations shall be signed and sealed by a New Jersey licensed professional engineer or architect.**

(j) – (k) (No change.)

(l) When a proposed development or project requires more than one coastal permit under this subchapter, or requires, in addition, an approval under the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13 and/or the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A, an applicant may submit a single application for all of the approvals, except for an authorization under a general permit-by-certification or a **letter of interpretation under the Freshwater Wetlands Protection Act Rules**, provided that the application meets all application requirements of each such approval included.

**(m) Submission of an application under this chapter constitutes consent from the owner of the site allowing the Department to enter the site in a reasonable manner and at reasonable times to inspect the site. This consent shall continue in effect for the duration of the permit application review and decision process, including for the duration of any appeal made from the permit decision.**

7:7-23.3 Additional application requirements for an authorization under a general permit-by-certification

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(a) An application for authorization under a general permit-by-certification shall be submitted electronically through the Department's online [permitting] system at <https://www.nj.gov/dep/online>.

[(b) The online application for a general permit-by-certification requires an applicant to provide the following:]

**(b) In addition to meeting the requirements at N.J.A.C. 7:7-23.2, the applicant is required to provide the following in the online application for a general permit-by-certification:**

1. – 6. (No change.)

7. To accomplish the certification under (b)6 above, the PIN that was issued to the applicant upon registering with the Department's online [permitting] system; and

8. (No change.)

(c) Once the online application process is successfully completed, the authorization will be accessible to the applicant through the Department's online [permitting] system at <https://www.nj.gov/dep/online>.

7:7-23.4 Additional application requirements for an authorization under a general permit or for an individual permit

**(a) An application for authorization under a general permit or for an individual permit shall be submitted electronically through the Department's online system at <https://www.nj.gov/dep/online>, including all application information and supporting documentation.**

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**(b) In addition to meeting the requirements at N.J.A.C. 7:7-23.2, the applicant is required to provide the following in the online application for a general permit or individual permit:**

- 1. The number and subject matter of the general permit or individual permit under which the application is being submitted;**
- 2. The name of, or other identifier for, the proposed development or project;**
- 3. The location of the proposed development or project, including address, city, state, zip code, municipality, State plane coordinates, watershed information, lot, and block, as necessary;**
- 4. Information specific to the proposed project related to the requirements of the authorization or permit under which the application is being submitted;**
- 5. Contact information for the applicant, the property owner, any designated agent(s), and the municipal clerk for each municipality in which the project is located, including: name, address, telephone number, email address, municipality, county, organization, and organization type;**
- 6. The PIN that was issued to the applicant upon registering with the Department's online system;**  
**and**
- 7. The appropriate application fee set forth at N.J.A.C. 7:7-25.**

[(a)] **(c)** In addition to meeting the requirements at [N.J.A.C. 7:7-23.2] **(b) above**, an application for an authorization under a general permit [authorization] or for an individual permit shall include the following [material,] **digital documents, which must be uploaded to the online service** in the [number and] format specified in the appropriate application checklist:

[1. A completed application form, available from the Department at the address set forth at N.J.A.C. 7:7-1.6. This form requires basic information regarding the proposed development, including the name



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and address of the applicant and any designated agents, the specific location of the project, the types of permits or authorizations being sought, a brief description of the proposed activities and certifications as to the truth and accuracy of the information provided and as to the ownership of the property;]

**1. A completed Property Owner Certification form(s) signed by the applicant and all individuals required to certify to the application in accordance with N.J.A.C. 7:7-23.2(d). The Property Owner Certification form is available from the Department at the address set forth at N.J.A.C. 7:7-1.6;**

**2. Documentation that public notice has been provided in accordance with N.J.A.C. 7:7-24, including a completed Public Notice form, available from the Department at the address set forth at N.J.A.C. 7:7-1.6;**

[3. The appropriate application fee as set forth at N.J.A.C. 7:7-25;]

**3. Site location maps, including the following:**

**i. A copy of the tax map for the property;**

**ii. A copy of the portion of the county road map showing the property location; and**

**iii. A copy of the USGS quad map(s) that includes the site, with the site clearly outlined to scale.**

4. (No change.)

[5. State plane coordinates for a point at the approximate center of the site, except for linear developments as provided at (a)5i below. The accuracy of the State plane coordinates shall be within 50 feet of the actual center point for the site.

i. State plane coordinates shall be provided for linear developments or shore protection developments including beach nourishment, beach and dune maintenance, or dune creation as follows:

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(1) For a linear development of one-half mile or more in length, the State plane coordinates shall include the coordinates for the end points of the development and the coordinates for points located at 1,000-foot intervals along the entire length of the development; and

(2) For a linear development of less than one-half mile in length, the State plane coordinates shall include the coordinates for the end points of the development;]

[6.] **5.** In addition to the site plan specified at [(a)4] **(c)4** above, other visual representations, such as photographs, graphs, **maps**, and tables, that illustrate existing site conditions and the proposed development;

[7.] **6.** (No change in text.)

[8. Information about the anticipated impacts of the proposed development, including any monitoring or reporting methods that will be used;]

[9.] **7.** (No change in text.)

[10. Consent from the owner of the site allowing the Department to enter the site in a reasonable manner and at reasonable times to inspect the site. This consent shall continue in effect for the duration of the permit application review and decision process, including for the duration of any appeal made from the permit decision.]

**8. A copy of all conservation restrictions that impact any portion of the site that is the subject of the application.**

7:7-23.5 Compliance statement requirement for an application for authorization under a general permit

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(a) In addition to the requirements at N.J.A.C. 7:7-23.2 and 23.4, an application for authorization under a general permit shall include a compliance statement. The compliance statement is a narrative, which shall:

1. – 2. (No change.)

3. Describe the characteristics of the site and the location of all proposed regulated activities, potential impacts from the construction process, and, as applicable, the operation of the development after completion **and any monitoring or reporting methods that will be used.**

7:7-23.6 Additional requirements specific to an application for an individual permit

(a) (No change.)

(b) An application for an individual permit shall include an Environmental Impact Statement (EIS).

The EIS shall:

1. Describe in a narrative form:

i. – ii. (No change.)

iii. The location of all proposed regulated activities, potential impacts from the construction process, and, as applicable, the operation of the development after completion **and any monitoring or reporting methods that will be used;**

2. – 4. (No change.)

(c) – (f) (No change.)

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SUBCHAPTER 24. REQUIREMENTS FOR AN APPLICANT TO PROVIDE PUBLIC NOTICE OF AN APPLICATION

7:7-24.3 Contents and recipients of public notice of an application

(a) For any of the applications listed [in] at N.J.A.C. 7:7-24.1(a), the applicant shall provide a copy of the entire application, as submitted to the Department, to the municipal clerk in each municipality in which the site is located.

**1. For applications submitted electronically, the applicant shall provide to the applicable municipal clerk(s) a description of the project, the specific permit(s)/authorization(s) being sought, and all items that will be uploaded to the online service, including all required items on the appropriate application checklist.**

(b) – (d) (No change.)

(e) An applicant for an authorization under a general permit, individual permit, or major technical modification for a project in the Pinelands Area as designated under the Pinelands Protection Act at N.J.S.A. 13:18A-11(a), shall provide a copy of the entire application, as submitted to the Department, to the New Jersey Pinelands Commission.

**1. For applications submitted electronically, the application shall consist of a description of the project, the specific permit(s)/authorization(s) being sought, and all items that will be uploaded to the online service, including all required items on the appropriate application checklist.**

(f) In addition to the public notice required at (a) and (b) above, an applicant for a waterfront development individual permit to install a submarine cable in the ocean, or to perform sand mining in the ocean, shall provide to all of the entities listed below a [copy of the completed application form]

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**description of the project, the specific permit(s)/authorization(s) being sought,** and a copy of the NOAA nautical chart showing the proposed cable route or the limits of the proposed sand mining area that were submitted to the Department as part of the permit application:

1. – 6. (No change.)

## SUBCHAPTER 25. APPLICATION FEES

### 7:7-25.1 Application fees

(a) This subchapter establishes the application fees for:

1. (No change.)

**2. An authorization under a general permit-by-certification, pursuant to N.J.A.C. 7:7-3 and 5, except as provided at (b)4 below;**

Recodify existing 2. – 4. as **3. – 5.** (No change in text.)

(b) (No change.)

(c) [All application] **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.”] **as follows:**

**1. For applications submitted electronically, application fees shall be paid through the online service by credit card or e-check, or for applications for general permits and individual permits, the applicant may elect to receive a bill that shall be payable directly to the New Jersey Department of the Treasury; or**

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**2. For all other applications, 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” and submitted to the Department at the address set forth at N.J.A.C. 7:7-1.6.**

(d) – (g) (No change.)

#### SUBCHAPTER 26. APPLICATION REVIEW

7:7-26.2 Applications for all coastal general permit authorizations and applications for waterfront development and coastal wetlands individual permits – completeness review

(a) Within 20 working days after receiving an application for authorization under a general permit or an application for a waterfront development or coastal wetlands individual permit, where day one of the 20-working-day period is the date the application is received, the Department shall take one of the following actions:

1. – 2. (No change.)

3. Determine the application is administratively incomplete and [return the application] **issue notification to the applicant in writing that the application is administratively incomplete. This notification shall specify the additional information required and the deadline by which the information must be submitted.**

**(b) Within 15 calendar days after receiving the additional information submitted pursuant to (a)3 above for an administratively incomplete application, the Department shall take one of the following actions:**

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**1. Determine that the application is both administratively and technically complete and issue notification to the applicant in writing that the application is complete for review, effective as of the date the Department received the additional information;**

**2. Determine that the application is administratively complete but technically incomplete and issue notification to the applicant in writing that the application is technically incomplete. This notification shall specify the additional information required and the deadline by which the information must be submitted; or**

**3. Determine that the additional information is not sufficient and issue notification to the applicant in writing that the application remains administratively incomplete. The notification shall specify the additional information required and the deadline by which the additional information must be submitted.**

[(b)] **(c)** Within 15 calendar days after receiving the additional information submitted pursuant to (a)2 **or (b)2** above for a technically incomplete application, the Department shall take one of the following actions:

1. – 2. (No change.)

[(c)] **(d)** The applicant shall send the additional information submitted to the Department pursuant to (a)2 [and] **or 3**, (b)2 **or 3**, **or (c)2** above to the municipal clerk of each municipality in which the project is located and shall provide notice explaining that additional information has been submitted to the Department to any person listed at N.J.A.C. 7:7-24.3(b) whom the Department determines would likely be affected by the additional information. The applicant shall provide documentation in accordance with N.J.A.C. 7:7-24.6 that the additional information and notice were provided.

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[(d)] **(e)** An applicant shall submit all additional information pursuant to (a)2 or **3**, (b)2 **or 3**, or **(c)2** above within 90 calendar days after the date of the Department request, unless the Department specifies a different deadline in the request. If the applicant does not submit the additional information by the deadline, the Department shall, in accordance with N.J.A.C. 7:7-26.7, cancel the application or, if the applicant demonstrates good cause for the delay in providing the requested information, extend the time to submit the information.

[(e)] **(f)** (No change in text.)

[(f)] **(g)** If the Department does not take one of the actions [in] **at (b) or (c)** above within 15 calendar days after receiving additional information submitted for [a] **an administratively or** technically incomplete application, the application shall be declared complete for review, effective as of the date the additional information was received by the Department, and the Department shall make a decision to approve or deny the application by the applicable deadline set forth at N.J.A.C. 7:7-26.6.

Recodify existing (g) – (h) as **(h) – (i)** (No change in text.)

#### 7:7-26.3 CAFRA individual permit application – initial completeness review

(a) (No change.)

(b) Within 20 working days after receiving an application for a CAFRA individual permit, where day one of the 20-working-day period is the date the application is received, the Department shall take one of the following actions:

1. – 2. (No change.)



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3. Determine the application is administratively incomplete and [return the application.] **issue notification to the applicant in writing that the application is administratively incomplete. This notification shall specify the additional information required and the deadline by which the information must be submitted.**

**(c) Within 15 calendar days after receiving the additional information submitted pursuant to (b)3 above for an administratively incomplete application, the Department shall take one of the following actions:**

**1. Determine the application is both administratively and technically complete and issue notification to the applicant in writing that the application is complete for public comment or complete for public hearing, effective as of the date the Department received the additional information;**

**2. Determine the application is administratively complete but technically incomplete and issue notification to the applicant in writing that the application is technically incomplete. This notification shall specify the additional information required and the deadline by which the information must be submitted; or**

**3. Determine the additional information is not sufficient and issue notification to the applicant in writing that the application remains administratively incomplete. The notification shall specify the additional information required and the deadline by which the additional information must be submitted.**

**[(c)] (d) Within 15 calendar days after receiving the additional information submitted pursuant to (b)2 or (c)2 above for a technically incomplete application, the Department shall take one of the following actions:**

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1. – 2. (No change.)

[(d)] **(e)** The applicant shall send the additional information submitted to the Department pursuant to (b)2 [and] **or 3**, (c)2 **or 3**, **or (d)2** above to the municipal clerk of each municipality in which the project is located and shall provide notice explaining that additional information has been submitted to the Department to any person listed at N.J.A.C. 7:7-24.3(b) whom the Department determines would likely be affected by the additional information. The applicant shall provide documentation in accordance with N.J.A.C. 7:7-24.6 that the additional information and notice were provided.

[(e)] **(f)** An applicant shall submit all additional information pursuant to (b)2 **or 3**, (c)2 **or 3**, **or (d)2** above within 90 calendar days after the date of the Department request, unless the Department specifies a different deadline in the request. If the applicant does not submit the additional information by the deadline, the Department shall, in accordance with N.J.A.C. 7:7-26.7, cancel the application or, if the applicant demonstrates good cause for the delay in providing the requested information, extend the time to submit the information.

[(f)] **(g)** (No change in text.)

[(g)] **(h)** If the Department does not take one of the actions in (c) **or (d)** above within 15 calendar days after receiving additional information submitted for [a] **an administratively or** technically incomplete application, the application shall be declared complete for public comment or complete for public hearing, effective as of the date the additional information was received by the Department.

[(h)] **(i)** (No change in text.)

7:7-26.5 CAFRA individual permit application – public hearing

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(a) (No change.)

(b) The Department shall set the date, place, and time of a public hearing within 15 calendar days after the date that the Department declares a CAFRA individual permit application is complete for public hearing [under] **pursuant to** N.J.A.C. 7:7-26.3(b), [or] (c), **or (d)** and shall so notify the applicant.

1. – 7. (No change.)

(c) – (e) (No change.)

#### 7:7-26.7 Cancellation of an application

(a) The Department shall cancel an application for any of the following reasons:

1. An applicant does not submit additional information within the time frame prescribed by the Department under this subchapter for an application that has been determined to be **administratively or** technically incomplete;

2. – 3. (No change.)

(b) (No change.)

#### 7:7-26.10 Fee refund or credit when an application is [returned,] withdrawn[, ] or cancelled

(a) Except as provided [in] **at** (b) below, the Department shall, upon written request of an applicant, fully refund the submitted application fee in the following circumstances:

[1. The application is returned because it is not administratively complete;]

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[2.] **1.** The application is withdrawn within 60 calendar days of its submittal to the Department and is not **administratively or** technically complete; or

[3.] **2.** (No change in text.)

(b) (No change.)

(c) If an application is withdrawn by the applicant under circumstances other than those identified at [(a)2 and 3] **(a)** above, or is cancelled [under] **pursuant to** N.J.A.C. 7:7-26.7, any application fee that was paid to the Department shall be credited toward the application fee for one new application, provided the new application is submitted:

1. – 4. (No change.)

## SUBCHAPTER 27. PERMIT CONDITIONS; EXTENSION, MODIFICATION, TRANSFER, SUSPENSION, AND TERMINATION OF AUTHORIZATIONS AND PERMITS

7:7-27.3 Extension of an authorization under a general permit or of a waterfront development individual permit for activities waterward of the mean high water line

(a) – (b) (No change.)

(c) A request for an extension of an authorization under a general permit or of an individual permit shall include:

1. A completed application form [as described at N.J.A.C. 7:7-23.4(a)1 and], available from the Department at the address set forth at N.J.A.C. 7:7-1.6[;]. **This form requires basic information regarding the proposed development, including the type of application being submitted, the name**

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**and address of the applicant and any designated agents, the specific location of the project, a brief description of the proposed activities, and certifications as to the truth and accuracy of the information provided and as to the ownership of the property;**

2. – 3. (No change.)

(d) – (g) (No change.)

7:7-27.6 Application for a modification

(a) – (b) (No change.)

(c) To apply for a minor technical modification of an authorization under a general permit or an individual permit [under] **pursuant to** N.J.A.C. 7:7-27.5(d), the permittee shall submit:

1. A completed application form as described at N.J.A.C. 7:7-[23.4(a)1]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6;

2. – 8. (No change.)

(d) To apply for a major technical modification of an authorization under a general permit or an individual permit [under] **pursuant to** N.J.A.C. 7:7-27.5(e), the permittee shall submit:

1. A completed application form as described at N.J.A.C. 7:7-[23.4(a)1]**27.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7-1.6;

2. – 10. (No change.)

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## APPENDIX G

### THE MANAGEMENT AND REGULATION OF DREDGING ACTIVITIES AND DREDGED MATERIAL IN NEW JERSEY'S TIDAL WATERS

...

#### Chapter III – Information Required of All Projects

##### A – Background Information

In order for the Department to determine what specific sampling and testing are required for a proposed dredging project and the management of the dredged material, background information must be submitted to the Department. The following information shall be submitted to Department for all applications:

1. (No change.)

2. A hydrographic survey of the dredging site taken within the past six months. All hydrographic surveys shall be performed by an ACSM (American Congress of Surveying and Mapping) certified hydrographer, a licensed land surveyor with five years hydrographic experience, or a professional engineer. For detailed information on how to conduct these surveys, see USACE (2002), Engineer Manual for Hydrographic Surveying. This USACE manual provides information on levels of accuracy, transect line spacing, acceptable surveying methods, and the class of survey applicable for a specific project. The hydrographic survey and plans of the dredging project submitted to the Department should also be consistent with the following criteria:

- all hydrographic/survey plans submitted shall be of a scale no greater than one inch equals 100 feet;

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- all plans shall be submitted [folded] with an accompanying site location map (a USGS quadrangle is preferred);
- all projects must provide precision bathymetry (accurate to 0.10 foot vertically and one foot horizontally);
- all plans submitted shall show nearby outfalls, bulkheads, dolphins, mooring areas, turning basins, and any other prominent surface or bottom features;
- all plans must accurately identify proposed core sampling locations;
- hydrographic plans must be dated indicating the time the survey was taken and when the plan(s) was prepared;
- all plans must identify the areas to be dredged;
- all plans shall identify project depths in feet below mean low water;

3. – 10. (No change.)

Pre-application conferences in accordance with N.J.A.C. 7:7-22 are recommended prior to the actual submittal of a permit application, to discuss the proposed project, required permits, sampling and testing protocols, and other information which must be submitted with the application. At this time, a project manager from the Department will be assigned to the proposed project and will act as the Department's point of contact with the applicant. The purposes of the pre-application conferences are (1) to preliminarily identify potential project impacts and areas of concern, (2) to identify the permits required for the proposed project, (3) to develop the sampling and testing plans needed to obtain the data required by the Department to properly characterize the sediments to be dredged (which will, in part, be used to evaluate the potential impacts of the dredging operation and the applicant-selected

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dredged material management alternative), (4) to identify other information the Department will need as part of its regulatory review process, and (5) to develop a plan of action and tentative schedule for completing data-gathering and review activities, ultimately leading to a regulatory decision by the Department.

...

## Chapter VI – References

The following documents are incorporated by reference into this appendix and chapter.

...

“Guidance for Performing Tests on Dredged Material Proposed for Ocean Disposal,” U.S. Army Corps of Engineers - New York District and Environmental Protection Agency - Region II [1992] **April 2016**.

[“Guidance for Performing Tests on Dredged Material Proposed for Ocean Disposal,” Draft - 18 December 1992] This document is available on the web at

[<http://www.epa.gov/region02/water/dredge/testing.htm>]

[https://www.epa.gov/sites/production/files/2016-10/documents/r2\\_rtm-april\\_2016.pdf](https://www.epa.gov/sites/production/files/2016-10/documents/r2_rtm-april_2016.pdf).

...

## ATTACHMENT C

### ANALYTICAL PROCEDURES AND ASSOCIATED QUALITY ASSURANCE/QUALITY CONTROL MEASURES

I. (No change.)

II. Quality Assurance/Quality Control Guidance and Reporting Requirements



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The guidance described below has been drawn from the December 1992 regional manual for USEPA Region II and the USACE New York District, entitled, "Guidance for Performing Tests on Dredged Material Proposed for Ocean Disposal"; the USEPA and the USACE "QA/QC Guidance for Sampling and Analysis of Sediments, Water, and Tissues for Dredged Material Evaluations," (EPA 823-B-95-001, April 1995); and the "Field Sampling Procedures Manual," New Jersey Department of Environmental Protection and Energy, 2005.

The following quality control samples or procedures will be required for chemical analysis of both sediment and water matrices:

1. – 4. (No change.)
5. Minimum detection limit verification within last two years for marine sediments and salt water matrices to be submitted to the Department upon request (40 CFR 136 [(1994)] Appendix B, Revision [1.11] **2**).
6. (No change.)
- ...

## ATTACHMENT G

### DREDGED MATERIAL ACCEPTABLE USE DETERMINATION PROCESS

All persons producing structural or nonstructural fill, manufactured soil, or using (refer to Chapter 5 of this appendix), processing, or transferring dredged materials in New Jersey must obtain an Acceptable Use Determination (AUD) from the Department as outlined below prior to any use, processing, or transfer of the dredged material or products containing dredged material. The process for obtaining an

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AUD for dredged material from the tidal waters of the State of New Jersey and adjacent interstate waters is as follows:

...

### III. Application Process

A. The applicant for an AUD shall submit the following information with the waterfront development permit application, or the application for modification of said permit:

1. (No change.)

2. A description of the acceptable use project including:

(a) – (d) (No change.)

(e) [Three copies of a] **A** site plan where the dredged material, admixtures, and product are managed or used, plotted on a USGS topographic map. The site plan map shall be prepared, signed, and sealed by a licensed New Jersey professional engineer or surveyor. The site plan must:

i. – ix. (No change.)

(f) – (l) (No change.)

3. – 5. (No change.)

...

## CHAPTER 7A

### FRESHWATER WETLAND PROTECTIONS ACT RULES

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## SUBCHAPTER 1. GENERAL PROVISIONS

### 7:7A-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions specifically applicable to N.J.A.C. 7:7A-11, Mitigation, are set forth at N.J.A.C. 7:7A-11.1.

...

“Freshwater wetlands permit” means a permit **or authorization** to engage in a regulated activity in a freshwater wetland issued pursuant to the Freshwater Wetlands Protection Act and this chapter.

...

[“General permit” means a permit, adopted as a rule, under which the Department issues authorizations. A general permit may authorize regulated activities in freshwater wetlands, State open waters, and/or transition areas. An authorization issued under a general permit satisfies the requirement for a freshwater wetlands permit, open water fill permit, and/or transition area waiver, as applicable.

“General permit-by-certification” means a permit to undertake a regulated activity for which the terms and conditions are established in rules promulgated under this chapter at N.J.A.C. 7:7A-5 and 6, and which may be conducted upon Department approval through the electronic permitting process set forth at N.J.A.C. 7:7A-16.6.]

...

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["Individual permit" means a freshwater wetlands permit or open water fill permit that is issued by the Department after an alternatives analysis and other site-specific and project-specific reviews required at N.J.A.C. 7:7A-10.]

...

"Open water fill permit" means the type of New Jersey Pollution Discharge Elimination System permit or **authorization** issued pursuant to this chapter and N.J.S.A. 58:10A-1 et seq., which governs the discharge of dredged or fill material into State open waters.

...

"Permit" means [an] **a permit or authorization** [or approval to engage in a regulated activity in a freshwater wetland, State open water, or transition area,] issued [by the Department] under this chapter **pursuant to the Freshwater Wetlands Protection Act or the Water Pollution Control Act to engage in a regulated activity in a freshwater wetland, State open water, or transition area.** [The Department issues the following permits under this chapter:

1. Freshwater wetlands permits including general permit authorizations;
2. Open water fill permits; and
3. Transition area waivers.]

...

7:7A-1.4 Forms, checklists, and information; Department address and website

(a) (No change.)

(b) Applications[, fees,] and other correspondence shall be submitted to the following addresses:

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**1. For submittal of an application for an e-LOI, for authorization under a general permit-by-certification or general permit, for an individual permit, or for a transition area waiver, the Department's website at <https://www.nj.gov/dep/online>; and**

**2. For correspondence or the submittal of an application for an exemption, letter of interpretation, or an extension, transfer, or modification of a permit:**

[1.] i. For regular mail:

New Jersey Department of Environmental Protection

Division of Land Use Regulation

Mail Code 501-02A, PO Box 420

Trenton, New Jersey 08625; **and**

[2.] ii. For hand delivery, courier service, and overnight mail:

New Jersey Department of Environmental Protection

Division of Land Use Regulation

501 East State Street

5 Station Plaza, Second Floor

Trenton, NJ 08609[; and].

[3. For submittal of an application for authorization under a general permit-by-certification, the Department's website at <https://www.nj.gov/dep/online>.]

(c) (No change.)

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(d) Applications [or other materials] **for authorization under a general permit-by-certification or general permit, an individual permit, or a transition area waiver** sent or delivered to the Department [at an address other than those in (b) above] **by mail, hand delivery, or courier service** shall not be deemed to have been received for the purposes of calculating application review deadlines or other time periods under this chapter.

(e) **Applications identified at (b)2 above sent or delivered to the Department at an address other than those listed in (b)2i and ii above shall not be deemed to have been received for the purposes of calculating application review deadlines or other time periods under this chapter.**

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

### 7:7A-2.6 Exemption letters

(a) (No change.)

(b) To apply for an exemption letter for a farming, silviculture, or ranching exemption under N.J.A.C.

7:7A-2.4(c), an applicant shall submit the following:

**1. A completed application form described at N.J.A.C. 7:7A-20.4(c)1 and available from the Department at the address set forth at N.J.A.C. 7:7A-1.4.**

Recodify existing 1. – 4. as **2. – 5.** (No change in text.)

(c) To apply for an exemption letter for a normal silviculture activities exemption pursuant to N.J.A.C. 7:7A-2.4(d), an applicant shall submit the following:

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**1. A completed application form described at N.J.A.C. 7:7A-20.4(c)1 and available from the Department at the address set forth at N.J.A.C. 7:7A-1.4.**

Recodify existing 1. – 2. as **2. – 3.** (No change in text.)

(d) To apply for an exemption letter for a transition area exemption pursuant to N.J.A.C. 7:7A-2.4(f), an applicant shall submit the following:

**1. A completed application form described at N.J.A.C. 7:7A-20.4(c)1 and available from the Department at the address set forth at N.J.A.C. 7:7A-1.4.**

Recodify existing 1. – 3. as **2. – 4.** (No change in text.)

#### SUBCHAPTER 5. GENERAL PROVISIONS FOR GENERAL PERMITS-BY-CERTIFICATION AND GENERAL PERMITS

7:7A-5.3 Use of an authorization pursuant to a general permit-by-certification or a general permit to conduct regulated activities

(a) An activity that meets the requirements of a general permit-by-certification may be conducted when the person proposing to conduct the activity receives the automatic authorization resulting from completion of the application submission through the Department's electronic [permitting] system in accordance with N.J.A.C. 7:7A-16.6.

(b) – (i) (No change.)

#### SUBCHAPTER 7. GENERAL PERMITS

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7:7A-7.1 General permit 1 – Maintenance and repair of existing features

(a) (No change.)

(b) If the activity is the ongoing maintenance of an off-stream stormwater management facility created in uplands, including a wetland constructed in uplands for stormwater management purposes after September 4, 2001, the following shall apply:

1. The application for authorization shall be subject to the public notice requirements [in] at N.J.A.C. 7:7A-17, but shall not be subject to the application requirements [in] at N.J.A.C. 7:7A-16, **except for the general application requirements at N.J.A.C. 7:7A-16.2;**

2. The application for authorization shall be submitted to the Department [by mail at the address set forth at N.J.A.C. 7:7A-1.4,] **electronically through the Department’s online system at <https://nj.gov/dep/online>** and shall include the following:

[i. A completed application form as described at N.J.A.C. 7:7A-16.7(a)1 and available from the Department at the address set forth at N.J.A.C. 7:7A-1.4;]

**i. All of the information listed at N.J.A.C. 7:7A-16.7(b);**

**ii. The following digital documents, which must be uploaded to the online service in the format specified in the application checklist:**

**(1) A completed Property Owner Certification form(s) signed by the applicant and all individuals required to certify to the application in accordance with N.J.A.C. 7:7A-16.2(d). The Property Owner Certification form(s) is available from the Department at the address set forth at N.J.A.C. 7:7A-1.4;**

[ii.] **(2) A copy of the permit, if any, authorizing the original construction of the stormwater management facility, or a description of the stormwater management facility;**



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[iii.] **(3)** (No change in text.)

**(4) Photographs or other visual representations that illustrate existing site conditions;**

[iv.] **(5)** Documentation that public notice of the application has been provided in accordance with N.J.A.C. 7:7A-17, **including a completed Public Notice form, available from the Department at the address set forth at N.J.A.C. 7:7A-1.4;** and

[v. The appropriate application fee as set forth at N.J.A.C. 7:7A-18; and]

**(6) A copy of all conservation restrictions that impact any portion of the site that is the subject of the application; and**

3. (No change.)

7:7A-7.24 General permit 24—Malfunctioning individual subsurface sewage disposal (septic) systems

(a) – (c) (No change.)

(d) Activities under general permit 24 are not subject to the application contents requirements at N.J.A.C. 7:7A-16, **except for the general application requirements at N.J.A.C. 7:7A-16.2,** but are subject to the public notice requirements at N.J.A.C. 7:7A-17. There is no application fee for an authorization under general permit 24. Instead, an [applicant for authorization under general permit 24 shall submit the following in writing to the Department, at least 30 days prior to starting work:

1. A description and plan of the activities;

2. The location of the site, including the county and municipality, and the block and lot, identified on both a regional map and a tax map; and

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3. A letter from the local board of health with jurisdiction over the individual subsurface sewage disposal system, stating that:

i. The proposed activities are authorized under, and comply with, the Department's Standards for Individual Subsurface Sewage Disposal Systems at N.J.A.C. 7:9A;

ii. The proposed activities are not directly or indirectly caused by an expansion of the facility the individual subsurface sewage disposal system serves, or a change in its use, including a change from disuse or abandonment to any type of use; and

iii. There is no alternative location on the site that:

(1) Has a seasonal high water table deeper than one and one half feet below the existing ground surface; and

(2) Can be used for a subsurface sewage disposal system.] **application for authorization shall be submitted to the Department electronically through the Department's online system at <https://nj.gov/dep/online> at least 30 days prior to starting work and shall include the following:**

**1. All of the information listed at N.J.A.C. 7:7A-16.7(b);**

**2. The following digital documents, which must be uploaded to the online service in the format specified in the application checklist:**

**i. A completed Property Owner Certification form(s) signed by the applicant and all individuals required to certify to the application in accordance with N.J.A.C. 7:7A-16.2(d). The Property Owner Certification form is available from the Department at the address set forth at N.J.A.C. 7:7A-1.4;**

Recodify existing 1.-2. as ii.-iii. (No change in text.)

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[3.] **iv.** A letter from the local board of health with jurisdiction over the individual subsurface sewage disposal system, stating that:

Recodify existing i.-ii. as **(1)-(2)** (No change in text.) **The**

[iii.] **(3)** There is no alternative location on the site that:

[(1)] **(A)** (No change in text.)

[(2)] **(B)** Can be used for a subsurface sewage disposal system[.];

**v. Photographs or other visual representations that illustrate existing site conditions;**

**vi. Documentation that public notice of the application has been provided in accordance with N.J.A.C. 7:7A-17, including a completed Public Notice form, available from the Department at the address set forth at N.J.A.C. 7:7A-1.4; and**

**vii. A copy of all conservation restrictions that impact any portion of the site that is the subject of the application.**

7:7A-7.25 General permit 25— Minor channel or stream cleaning for local government agencies

(a) – (d) (No change.)

(e) An application for authorization under general permit 25 is not subject to the application requirements [in] **at N.J.A.C. 7:7A-16, except for the general application requirements at N.J.A.C. 7:7A-16.2**, but is subject to the public notice requirements at N.J.A.C. 7:7A-17. An application for authorization under general permit 25 shall be submitted to the Department [by mail at the address set

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forth at N.J.A.C. 7:7A-1.4] **electronically through the Department's online system at**

**<https://nj.gov/dep/online>**, and shall include the following:

[1. A completed application form as described at N.J.A.C. 7:7A-16.7(a)1 and available from the Department at the address set forth at N.J.A.C. 7:7A-1.4;]

**1. All of the information listed at N.J.A.C. 7:7A-16.7(b); and**

**2. The following digital documents, which must be uploaded to the online service in the format specified in the application checklist:**

**i. A completed Property Owner Certification form(s) signed by the applicant and all individuals required to certify to the application in accordance with N.J.A.C. 7:7A-16.2(d). The Property Owner Certification form is available from the Department at the address set forth at N.J.A.C. 7:7A-1.4;**

[2.] **ii.** [Two sets of] **Site** plans prepared by an engineer, which clearly depict the segments of **the** channel or stream to be cleaned and the limit of wetlands and/or transition areas to be impacted;

[3.] **iii.** (No change in text.)

[4.] **iv.** [One copy of a] **A** USGS quad map showing the affected portion of the channel or stream;

[5.] **v.** (No change in text.)

**vi. A compliance statement that includes the following:**

[6.] **(1)** (No change in text.)

[7.] **(2)** A description of the nature of the project [and the methods that will be used];

[8.] **(3)** (No change in text.)

[9. The appropriate application fee as set forth at N.J.A.C. 7:7A-18;

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10. Documentation that the public notice requirements of N.J.A.C. 7:7A-17 have been met; and]

[11.] **(4)** A certification signed by the county or municipal engineer, or an engineer employed by the local Soil Conservation District, which lists each requirement [in] **at** (a) and (c) above that applies to the project, and states how the requirement has been or will be satisfied[.];

**(5) A demonstration that the proposed activity or project satisfies the requirements of N.J.A.C. 7:7A-5.7;**

**vii. Documentation that the public notice requirements of N.J.A.C. 7:7A-17 have been met, including a completed Public Notice form, available from the Department at the address set forth at N.J.A.C. 7:7A-1.4; and**

**viii. A copy of all conservation restrictions that impact any portion of the site that is the subject of the application.**

(f) (No change.)

## SUBCHAPTER 16. APPLICATION REQUIREMENTS

### 7:7A-16.2 General application requirements

(a) The Department provides a checklist for each type of application submitted under this subchapter. The checklist identifies **all of** the submissions required under the rules to be part of an application, and also the appropriate level of detail and the format of the information to be submitted for each type of application. For example, where the rules require, as part of an application, the submittal of [a site plan or] photographs showing certain types of information, the corresponding checklist will indicate, based on the type of development the particular permit covers; [the number of

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copies of the plan to be submitted; the scale and details of the information to be illustrated on the plan; and] the number and orientation of photographs of the location of the proposed development. [The checklist will also indicate that the plan should be folded or prepared in a certain manner to facilitate processing.] **Where the rules require the submittal of a site plan, the corresponding checklist will indicate, based on the type of development the particular permit covers, the scale and details of the information to be illustrated on the plan.** Checklists can be downloaded from the Department's website at <https://www.nj.gov/dep/landuse> or obtained by contacting the Department at the address set forth at N.J.A.C. 7:7A-1.4.

(b) – (h) (No change.)

(i) Any professional report, survey, calculation, or other document prepared by a consultant, engineer, land surveyor, architect, attorney, scientist, or other professional and submitted as part of an application shall be certified in accordance with (j) below. This certification is separate from the certification of the application by the applicant.

**1. Stormwater management calculations must be signed and sealed by a New Jersey licensed professional engineer.**

(j) – (k) (No change.)

(l) When a proposed regulated activity or project requires more than one approval under this chapter, or requires, in addition, an approval under the Coastal Zone Management Rules at N.J.A.C. 7:7[,], and/or the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13, an applicant may submit a single application for all of the approvals, except for an authorization under a general permit-by-certification **or a letter of interpretation**, provided that the application meets all application requirements of each such approval included.

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**(m) Submission of an application under this chapter constitutes consent from the owner of the site allowing the Department to enter the site in a reasonable manner and at reasonable times to inspect the site. This consent shall continue in effect for the duration of the permit application review and decision process, including for the duration of any appeal made from the permit decision.**

#### 7:7A-16.3 Additional application requirements for an LOI

(a) In addition to meeting the requirements at N.J.A.C. 7:7A-16.2, an application for an LOI shall include the following material, in the number and format specified in the appropriate application checklist:

1. – 2. (No change.)
3. The appropriate application fee as set forth at N.J.A.C. 7:7A-18; **and**
4. A survey, certified in accordance with N.J.A.C. 7:7A-16.2(j), shall be submitted for every LOI, except a presence/absence LOI for an entire site. All surveys shall be conducted and documentation provided in accordance with the requirements at N.J.A.C. 7:36 Appendix 2, or a subset of these requirements as may be defined by the appropriate LOI checklist.
  - i. The survey for a presence/absence LOI for a portion of a site under N.J.A.C. 7:7A-4.3(c)2 shall identify the portion(s) of the site that is the subject of the application[; and].

[5. Consent from the owner of the site allowing the Department to enter the site in a reasonable manner and at reasonable times to inspect the site. This consent shall continue in effect for the duration of the application review and decision process, including for the duration of any appeal made from the decision on the application.]

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(b) – (c) (No change.)

#### 7:7A-16.4 Application requirements for an E-LOI

(a) An application for an LOI may be submitted electronically [via the “NJDEP online business portal” (portal)]. The web address for the portal is: <https://www.nj.gov/dep/online> through the Department’s online system at <https://www.nj.gov/dep/online>. All application information and supporting documentation can be submitted electronically with the exception of any required surveys, which must be mailed or delivered to the Department for review.

(b) [The portal requires] **In addition to meeting the requirements at N.J.A.C. 7:7A-16.2**, an applicant submitting an application for an LOI electronically **is required** to provide the following, as specified in the appropriate application checklist:

1. – 5. (No change.)

6. To accomplish the certifications [under] **at (b)5** above, the PIN that was issued to the applicant upon registering with the Department’s online [permitting] system; and

7. (No change.)

(c) In addition to meeting the requirements of (b) above, an applicant submitting an LOI electronically is required to upload the following digital documents to the [portal] **online service**, in the format and number specified in the appropriate application checklist:

1. – 2. (No change.)



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[3. Consent from the owner of the site allowing the Department to enter the site in a reasonable manner and at reasonable times to inspect the site. The electronic submission of a signed Property Owner's Certification Form shall serve as the property owner's consent. This consent shall continue in effect for the duration of the application review and decision process, including for the duration of any appeal made from the decision on the application;]

**3. A completed Property Owner Certification form(s) signed by the applicant and all individuals required to certify to the application in accordance with N.J.A.C. 7:7A-16.2(d). The Property Owner Certification form is available from the Department at the address set forth at N.J.A.C. 7:7A-1.4;**

4.-7. (No change.)

(d) In addition to meeting the requirements of (a), (b), and (c) above, an applicant submitting an LOI electronically is required to upload to the [portal] **online service** the following shapefile(s) in the format specified in the appropriate application checklist and guidance documents:

1. – 4. (No change.)

(e) (No change.)

7:7A-16.6 Additional application requirements for an authorization under a general permit-by-certification

(a) An application for authorization under a general permit-by-certification shall be submitted electronically through the Department's online [permitting] system at <https://www.nj.gov/dep/online>.

[(b) The online application for a general permit-by-certification requires an applicant to provide the following:]

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**(b) In addition to meeting the requirements at N.J.A.C. 7:7A-16.2, the applicant is required to provide the following in the online application for a general permit-by-certification:**

1. (No change.)

2. The name of, or other identifier for, the proposed [development] **regulated activity** or project;

3. The location of the proposed [development] **regulated activity** or project, including address, city, state, zip code, municipality, State plane coordinates, and lot and block numbers, **as necessary**;

4. – 6. (No change.)

7. To accomplish the certification [under] **at (b)6** above, the PIN that was issued to the applicant upon registering with the Department’s online [permitting] system; and

8. (No change.)

(c) Once the online application process is successfully completed, the authorization will be accessible to the applicant through the Department’s online [permitting] system at

<https://www.nj.gov/dep/online>.

7:7A-16.7 Additional application requirements for an authorization under a general permit, for an individual permit, or for a transition area waiver

**(a) An application for authorization under a general permit, for an individual permit, or for a transition area waiver shall be submitted electronically through the Department’s online system at**

**<https://nj.gov/dep/online>, including all application information and supporting documentation.**

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**(b) In addition to meeting the requirements at N.J.A.C. 7:7A-16.2, the applicant is required to provide the following in the online application for a general permit, individual permit, or transition area waiver:**

- 1. The number and subject matter of the general permit, individual permit, or transition area waiver under which the application is being submitted;**
- 2. The name of, or other identifier for, the proposed regulated activity or project;**
- 3. The location of the proposed regulated activity or project, including address, city, state, zip code, municipality, State plane coordinates, watershed information, lot, and block, as necessary;**
- 4. Information specific to the proposed project related to the requirements of the authorization, permit, or transition area waiver under which the application is being submitted;**
- 5. Contact information for the applicant, the property owner, any designated agent(s), and the municipal clerk for each municipality in which the project is located, including: name, address, telephone number, email address, municipality, county, organization, and organization type;**
- 6. The PIN that was issued to the applicant upon registering with the Department's online system;**  
**and**
- 7. The appropriate application fee set forth at N.J.A.C. 7:7A-18.**

**[(a)] (c) In addition to meeting the requirements at [N.J.A.C. 7:7A-16.2] (b) above, an application for an authorization under a general permit, for an individual permit, or for a transition area waiver shall include the following [material,] digital documents, which must be uploaded to the online service in the [number and] format specified in the appropriate application checklist:**

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[1. A completed application form, available from the Department at the address set forth at N.J.A.C. 7:7A-1.4. This form requires basic information regarding the regulated activity or project, including the name and address of the applicant and any designated agent(s), the specific location of the regulated activity or project, the types of approvals being sought, a brief description of the proposed activities, and certifications as to the truth and accuracy of the information provided and as to the ownership of the property;]

**1. A completed Property Owner Certification form(s) signed by the applicant and all individuals required to certify to the application in accordance with N.J.A.C. 7:7A-16.2(d). The Property Owner Certification form is available from the Department at the address set forth at N.J.A.C. 7:7A-1.4;**

2. Documentation that public notice of the application has been provided in accordance with N.J.A.C. 7:7A-17, **including a completed Public Notice form, available from the Department at the address set forth at N.J.A.C. 7:7A-1.4;**

[3. The appropriate application fee as set forth at N.J.A.C. 7:7A-18;]

**3. Site location maps, including the following:**

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

4. (No change.)

[5. State plane coordinates for a point at the approximate center of the site, except for a linear activity or project as provided at (a)5i below. The accuracy of the State plan coordinates shall be within 50 feet of the actual center point for the site;

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i. State plane coordinates shall be provided for a linear activity or project, such as a roadway, utility, stream bank stabilization project, or sediment and debris removal project, as follows:

(1) For a linear activity or project of one-half mile or more in length, the State plane coordinates shall include the coordinates for the end points of the delineation or linear activity or project and the coordinates for points located at

1,000-foot intervals along the entire length of the linear activity or project; and

(2) For a linear activity or project of less than one-half mile in length, the State plane coordinates shall include the coordinates for the end points of the linear activity or project;]

[6.] **5.** In addition to the site plan specified at [(a)4] **(c)4** above, other visual representations, such as photographs, graphs, maps, and tables, that illustrate existing site conditions and the proposed activity or project;

[7.] **6.** (No change in text.)

[8. Information about the anticipated impacts of the proposed activity or project, including any monitoring or reporting methods that will be used;]

Recodify existing 9. – 12. as **7. – 10.** (No change in text.)

[13. Consent from the owner of the site allowing the Department to enter the site in a reasonable manner and at reasonable times to inspect the site. This consent shall continue in effect for the duration of the application review and decision process, including for the duration of any appeal made from the decision on the application.]

**11. A copy of all conservation restrictions that impact any portion of the site that is the subject of the application.**

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[(b)] (d) (No change in text.)

7:7A-16.8 Additional requirements specific to an application for authorization under a general permit

(a) (No change.)

(b) An application for authorization under a general permit shall include the following:

1. – 3. (No change.)

4. A history of the ownership of the property beginning June 30, 1988, to present; [and]

5. A listing of contiguous lots that were in common ownership with the lot on which the activities are proposed and the ownership history of each lot beginning June 30, 1988, to present[.]; **and**

**6. A compliance statement that shall:**

**i. Demonstrate that the proposed activity or project satisfies the requirements of the applicable general permit;**

**ii. Demonstrate that the proposed activity or project satisfies the requirements at N.J.A.C. 7:7A-5.7; and**

**iii. Describe the characteristics of the site and the location of all proposed regulated activities, potential impacts from the construction process, and, as applicable, any monitoring or reporting methods that will be used.**

(c) (No change.)

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7:7A-16.9 Additional requirements specific to an application for an individual permit

(a) (No change.)

(b) An application for an individual permit shall include the following:

1. – 3. (No change.)

4. An environmental report that includes:

i. – iii. (No change.)

iv. An analysis of any potential temporary and/or permanent adverse environmental impact(s), whether onsite or offsite, of the proposed regulated activity or project on freshwater wetlands, State open waters, transition areas, fishery resources, and threatened or endangered species and their habitat, **including any monitoring or reporting methods that will be used;**

v. – vi. (No change.)

7:7A-16.10 Additional requirements specific to an application for a transition area waiver

(a) (No change.)

(b) An application for a transition area waiver shall include the following:

1. (No change.)

**2. A compliance statement that shall:**

**i. Demonstrate that the proposed activity or project satisfies the requirements at N.J.A.C. 7:7A-8;**

**and**

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**ii. Describe the characteristics of the site and the location of all proposed regulated activities, potential impacts from the construction process, and, as applicable, any monitoring or reporting methods that will be used.**

(c) – (d) (No change.)

#### SUBCHAPTER 17. REQUIREMENTS FOR AN APPLICANT TO PROVIDE PUBLIC NOTICE OF AN APPLICATION

##### 7:7A-17.3 Contents and recipients of public notice of an application

(a) For any of the applications listed [in] at N.J.A.C. 7:7A-17.1(a), the applicant shall provide a copy of the entire application, as submitted to the Department, to the municipal clerk in each municipality in which the site is located.

**1. For applications submitted electronically, the applicant shall provide to the applicable municipal clerk(s) a description of the project, the specific permit(s)/authorization(s) being sought, and all items that will be uploaded to the online service, including all required items on the appropriate application checklist.**

(b) – (e) (No change.)

#### SUBCHAPTER 18. APPLICATION FEES

##### 7:7A-18.1 Application fees

(a) – (b) (No change.)

**(c) Application fees shall be paid as follows:**



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**1. For applications submitted electronically, application fees shall be paid through the online service by credit card or e-check, or for applications for general permits, individual permits, and/or transition area waivers the applicant may elect to receive a bill that shall be payable directly to the New Jersey Department of the Treasury; or**

**[(c)] 2. For [All] all other applications, 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[.]” and submitted to the Department at the address set forth at N.J.A.C. 7:7A-1.4.**

(d) – (f) (No change.)

#### SUBCHAPTER 19. APPLICATION REVIEW

##### 7:7A-19.2 Completeness review

(a) (No change.)

(b) Within 20 working days after receiving an application, where day one of the [20-working day] **20-working-day** period is the date the application is received, the Department shall take one of the following actions:

1. – 2. (No change.)

3. Determine the application is administratively incomplete and [return the application] **issue notification to the applicant in writing that the application is administratively incomplete. This notification shall specify the additional information required and the deadline by which the information must be submitted.**

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**(c) Within 15 calendar days after receiving the additional information submitted pursuant to (b)3 above for an administratively incomplete application, the Department shall take one of the following actions:**

**1. Determine that the application is both administratively and technically complete and issue notification to the applicant in writing that the application is complete for review, effective as of the date the Department received the additional information, and transmit a copy of the application to other agencies if required under this chapter;**

**2. Determine that the application is administratively complete but technically incomplete and issue notification to the applicant in writing that the application is technically incomplete. This notification shall specify the additional information required and the deadline by which the information must be submitted; or**

**3. Determine that the additional information is not sufficient and issue notification to the applicant in writing that the application remains administratively incomplete. The notification shall specify the additional information required and the deadline by which the additional information must be submitted.**

**[(c)] (d) Within 15 calendar days after receiving the additional information submitted pursuant to (b)2 or (c)2 above for a technically incomplete application, the Department shall take one of the following actions:**

**1. – 2. (No change.)**

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[(d)] **(e)** The applicant shall send the additional information submitted to the Department pursuant to (b)2 [and] **or 3**, (c)2 **or 3**, **or (d)2** above to the municipal clerk of each municipality in which the project is located and shall provide notice explaining that additional information has been submitted to the Department to any person listed at N.J.A.C. 7:7A-17.3 whom the Department determines would likely be affected by the additional information. The applicant shall provide documentation in accordance with N.J.A.C. 7:7A-17.5 that the additional information and notice were provided.

[(e)] **(f)** An applicant shall submit all additional information pursuant to (b)2 **or 3**, (c)2 **or 3**, **or (d)2** above within 90 calendar days after the date of the Department request, unless the Department specifies a different deadline in the request. If the applicant does not submit the additional information by the deadline, the Department shall, in accordance with N.J.A.C. 7:7A-19.8, cancel the application or, if the applicant demonstrates good cause for the delay in providing the requested information, extend the time to submit the information.

[(f)] **(g)** (No change in text.)

[(g)] **(h)** If the Department does not take one of the actions [in] **at (c) or (d)** above within 15 calendar days after receiving additional information submitted for [a] **an administratively or** technically incomplete application, the application shall be declared complete for review, effective as of the date the additional information was received by the Department.

7:7A-19.4 Department review and decision on an application for authorization under general permit 25 for minor channel or stream cleaning for local government agencies

(a) Within 15 calendar days after receiving an application for authorization under a general permit 25 for activities that do not include the removal of sediment, or within 60 calendar days after receiving

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an application for activities that include the removal of sediment, where day one of the 15- or 60- calendar-day period is the date the application is received, the Department shall take one of the following actions:

1. – 2. (No change.)

3. Determine the application is administratively incomplete and [return the application] **issue notification to the applicant in writing that the application is administratively incomplete. This notification shall specify the additional information required and the deadline by which the information must be submitted.**

(b) – (c) (No change.)

#### 7:7A-19.8 Cancellation of an application

(a) The Department shall cancel an application for any of the following reasons:

1. An applicant does not submit additional information within the time frame prescribed by the Department under this subchapter for an application that has been determined to be **administratively or technically incomplete;**

2. – 3. (No change.)

(b) (No change.)

#### 7:7A-19.11 Fee refund or credit when an application is [returned,] withdrawn[,] or cancelled

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(a) Except as provided [in] **at (b)** below, the Department shall, upon written request of an applicant, fully refund the submitted application fee in the following circumstances:

1. The application is [returned because it is] **withdrawn within 60 calendar days of its submittal to the Department and is** not administratively complete;

2. – 3. (No change.)

(b) (No change.)

(c) If an application is withdrawn by the applicant under circumstances other than those identified at (a)**1, 2, and 3** above, or is cancelled under N.J.A.C. 7:7A-19.8, any application fee that was paid to the Department shall be credited toward the application fee for one new application, provided the new application is submitted:

1. – 4. (No change.)

SUBCHAPTER 20. PERMIT AND WAIVER CONDITIONS; **EXTENSION**, MODIFICATION, TRANSFER, SUSPENSION, AND TERMINATION OF AUTHORIZATIONS AND PERMITS

7:7A-20.4 Extension of an authorization under a general permit, a transition area waiver, and an individual permit

(a) – (b) (No change.)

(c) A request for an extension of a transition area waiver, an authorization under a general permit, or an individual permit shall include:

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1. A completed application form [as described at N.J.A.C. 7:7A-16.7(a)1 and], available from the Department at the address set forth at N.J.A.C. 7:7A-1.4[;]. **This form requires basic information regarding the regulated activity or project, including the type of application being submitted, the name and address of the applicant and any designated agents, the specific location of the regulated activity or project, a brief description of the proposed activities, and certifications as to the truth and accuracy of the information provided and as to the ownership of the property;**

2. – 3. (No change.)

(d) – (g) (No change.)

#### 7:7A-20.7 Application for a modification

(a) – (b) (No change.)

(c) To apply for a minor technical modification of a waiver, an authorization under a general permit, or an individual permit under N.J.A.C. 7:7A-20.6(d), the person requesting the modification shall submit:

1. A completed application form as described at N.J.A.C. 7:7A-[16.7(a)1]**20.4(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7A-1.4;

2. – 8. (No change.)

(d) To apply for a major technical modification of a waiver, an authorization under a general permit, or an individual permit under N.J.A.C. 7:7A-20.6(e), the person requesting the modification shall submit:

1. A completed application form described at N.J.A.C. 7:7A-[16.7(a)1]**20.4(c)1** and available from the Department at the address set forth at N.J.A.C. 7:7A-1.4;

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2. – 10. (No change.)

## CHAPTER 13

### FLOOD HAZARD AREA CONTROL ACT RULES

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 7:13-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions specifically applicable to N.J.A.C. 7:13-13, Mitigation, are set forth at N.J.A.C. 7:13-13.1.

...

**“Flood hazard area permit” or “permit” means a permit or an authorization issued under this chapter pursuant to the Flood Hazard Area Control Act.**

...

["General permit" means a flood hazard area permit to undertake a regulated activity for which the terms and conditions are established in rules promulgated under this chapter at N.J.A.C. 7:13-6 and 9, and for which a person must submit an application for authorization.

“General permit-by-certification” means a flood hazard area permit to undertake a regulated activity for which the terms and conditions are established in rules promulgated under this chapter at N.J.A.C. 7:13-6 and 8, and which may be conducted upon Department approval through the electronic permitting process set forth at N.J.A.C. 7:13-18.3.]

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...

["Individual permit" means a flood hazard area permit to undertake a regulated activity issued by the Department after submittal of an application, and after the Department conducts a project-specific review under the applicable requirements at N.J.A.C. 7:13-10, 11, and 12.]

...

["Permit-by-rule" means a flood hazard area permit to undertake a regulated activity for which the terms and conditions are established in a rule promulgated under this chapter at N.J.A.C. 7:13-6 and 7 and that is effective without prior written approval from the Department, provided all requirements established for that activity in the applicable permit-by-rule are satisfied.]

...

7:13-1.3 Forms, checklists, information, technical manual; Department address and website

(a) – (b) (No change.)

(c) Applications[, fees,] and other correspondence shall be submitted to the following addresses:

**1. For submittal of an application for authorization under a general permit-by-certification or general permit, for an individual permit, or for a verification in accordance with N.J.A.C. 7:13-18.5(a), the Department's website at <https://www.nj.gov/dep/online>; and**

**2. For correspondence or the submittal of an application for an applicability determination, a revision of a Department delineation, a verification in accordance with N.J.A.C. 7:13-18.5(b), or an extension, transfer, or modification of a permit:**



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[1.] i. For regular mail:

New Jersey Department of Environmental Protection

Division of Land Use Regulation

Mail Code 501-02A, [P.O.] **PO** Box 420

Trenton, NJ 08625; **and**

[2.] ii. For hand delivery, courier service, and overnight delivery:

New Jersey Department of Environmental Protection

Division of Land Use Regulation

501 East State Street

5 Station Plaza, Second Floor

Trenton, NJ 08609[; and].

[3. For submittal of an application for authorization under a general permit-by-certification, refer to the Department's website at <https://www.nj.gov/dep/online>.]

(d) (No change.)

(e) Applications [or other materials] **for authorization under a general permit-by-certification or general permit, an individual permit, or a verification in accordance with N.J.A.C. 7:13-18.5(a)** sent or delivered to the Department [at an address other than those listed in (c) above] **by mail, hand delivery,**

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**or courier service** shall not be deemed to have been received for the purposes of calculating application review deadlines or other time periods under this chapter.

**(f) Applications identified at (c)2 above sent or delivered to the Department at an address other than those listed at (c)2i and ii above shall not be deemed to have been received for the purposes of calculating application review deadlines or other time periods under this chapter.**

## SUBCHAPTER 2. APPLICABILITY AND ACTIVITIES FOR WHICH A PERMIT [OR AUTHORIZATION] IS REQUIRED

### 7:13-2.1 When a permit [or authorization] is required

(a) No person shall engage in a regulated activity in a regulated area without a flood hazard area [authorization or] permit as required by this chapter, or a coastal permit as required by N.J.A.C. 7:7, as set forth [in] **at** (b) and (c) below. Initiation of a regulated activity in a regulated area without a flood hazard area [authorization or] permit or a coastal permit as set forth at (b) below (except as provided [in] **at** (c) below) shall be considered a violation of this chapter and shall subject the party or parties responsible for the regulated activity to enforcement action, as set forth at N.J.A.C. 7:13-24. Regulated areas are set forth at N.J.A.C. 7:13-2.3 and regulated activities are set forth at N.J.A.C. 7:13-2.4.

(b) – (e) (No change.)

### 7:13-2.5 Applicability determinations

(a) – (b) (No change.)

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(c) A person requesting an applicability determination shall submit to the Department, at the address set forth at N.J.A.C. 7:13-1.3, the following:

1. A completed application form as described at N.J.A.C. 7:13-[18.4(a)1]**22.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:13-1.3;

2. – 3. (No change.)

(d) – (e) (No change.)

(f) After reviewing a request for an applicability determination, the Department shall:

1. (No change.)

2. Issue an applicability determination in writing, stating that, as of the date of issuance:

i. The Department has determined that this chapter does not apply to the water in question and/or the proposed activities and no flood hazard area permit [or authorization] is required;

ii. The Department has determined that this chapter applies to the water in question and/or proposed activities, and the recipient of the applicability determination is advised to submit an application for [an authorization or] a permit unless the proposed activities meet the requirements of a permit-by-rule; or

iii. (No change.)

(g) (No change.)

### SUBCHAPTER 3. DETERMINING THE FLOOD HAZARD AREA AND FLOODWAY

#### 7:13-3.7 Revision of a Department delineation by application

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(a) – (c) (No change.)

(d) An application for a minor revision of a Department delineation shall include the following:

1. (No change.)

2. A completed application form as described at N.J.A.C. 7:13-[18.4(a)1]**22.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:13-1.3;

3. – 5. (No change.)

(e) – (j) (No change.)

#### SUBCHAPTER 6. GENERAL PROVISIONS FOR PERMITS-BY-RULE, GENERAL PERMITS-BY-CERTIFICATION, AND GENERAL PERMITS

7:13-6.3 Use of a permit-by-rule, or an authorization pursuant to a general permit-by-certification or a general permit to conduct regulated activities

(a) (No change.)

(b) An activity that meets the requirements of a general permit-by-certification may be conducted when the person proposing to conduct the activity receives the automatic authorization resulting from completion of the application submission through the Department's electronic [permitting] system in accordance with N.J.A.C. 7:13-18.3.

(c) – (d) (No change.)

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7:13-6.7 Conditions applicable to a permit-by-rule or to an authorization pursuant to a general permit-by-certification or a general permit

(a) A person conducting regulated activities pursuant to a permit-by-rule, or pursuant to an authorization under a general permit-by-certification or general permit shall comply with:

1. (No change.)

2. The conditions that apply to [conducting regulated activities under any authorization or permit, set forth] **all permits** at N.J.A.C. 7:13-22.2.

(b) – (e) (No change.)

#### SUBCHAPTER 7. PERMITS-BY-RULE

7:13-7.24 Permit-by-rule 24 – construction of a tank

(a) Permit-by-rule 24 authorizes the construction of a tank, either above or below ground, provided the conditions at N.J.A.C. 7:13-6.7 are met and:

1. – 4. (No change.)

5. The cumulative footprint of all tanks, which have been constructed under any [authorization or] permit under this chapter, does not exceed 5,000 square feet since November 5, 2007.

7:13-7.25 Permit-by-rule 25 – construction of an aboveground athletic and/or recreational structure

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(a) Permit-by-rule 25 authorizes the construction of one or more aboveground athletic and/or recreational structures, such as a backstop, bleacher, picnic table, or playground equipment, provided the conditions at N.J.A.C. 7:13-6.7 are met and:

1. – 3. (No change.)

4. The cumulative footprint of all structures described [in] **at** (a) above, which have been erected under any [authorization or] permit under this chapter, does not exceed one-quarter acre since November 5, 2007;

5. – 6. (No change.)

#### SUBCHAPTER 9. GENERAL PERMITS

##### 7:13-9.1 General permit 1 - channel cleaning under the Stream Cleaning Act

(a) – (c) (No change.)

(d) An application for authorization under this general permit [shall be submitted to the Department by mail at the address set forth at N.J.A.C. 7:13-1.3] **is not subject to the application requirements at N.J.A.C. 7:13-18, except for those at N.J.A.C. 7:13-18.2. An application for authorization under general permit 1 shall be submitted to the Department electronically through the Department's online system at <https://nj.gov/dep/online>**, and shall include the following [(photocopies of maps and documents are acceptable)]:

[1. A completed application form as described at N.J.A.C. 7:13-18.4(a)1 and available from the Department at the address set forth at N.J.A.C. 7:13-1.3;]

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**1. All of the information listed at N.J.A.C. 7:13-18.4(b);**

**2. The following digital documents, which must be uploaded to the online service in the format specified in the application checklist:**

**i. A completed Property Owner Certification form(s) signed by the applicant and all individuals required to certify to the application in accordance with N.J.A.C. 7:13-18.2(d). The Property Owner Certification form is available from the Department at the address set forth at N.J.A.C. 7:13-1.3;**

[2.] **ii.** [One set of site] **Site** plans prepared by an engineer, which clearly depict the segments of **the channel or stream** to be cleaned;

[3.] **iii.** (No change in text.)

[4.] **iv.** [One copy of a] **A** USGS quad map showing the affected portion of the **channel or stream**;

[5.] **v.** Color photographs and a brief narrative description of the affected portion of the channel or stream, including the access points where workers and equipment will be brought to the channel or stream;

**vi. A compliance statement that includes the following:**

[6.] **(1)** The classification, under the Department's Surface Water Quality Standards, N.J.A.C. 7:9B, for the affected portion of the channel or stream;

[7.] **(2)** A description of the nature of the project [and the methods that will be used];

[8.] **(3)** (No change in text.)

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[9.] **(4)** A certification, signed by the county or municipal engineer, or an engineer employed by the local Soil Conservation District, that lists each requirement [in] **at** (a) above that applies to the project, and states how the requirement has been, or will be, satisfied[.]; **and**

**vii. A copy of all conservation restrictions that impact any portion of the site that is the subject of the application.**

(e) – (f) (No change.)

#### SUBCHAPTER 11. AREA-SPECIFIC REQUIREMENTS FOR INDIVIDUAL PERMITS

7:13-11.6 Requirements for a regulated activity in or affecting a present or documented habitat for threatened or endangered species

(a) – (d) (No change.)

(e) The Department shall require a survey and/or a habitat assessment for threatened or endangered species as part of an environmental report, as described at N.J.A.C. 7:13-[18.6(b)]**18.8(b)**, for an individual permit for any regulated activity which is likely to do either of the following:

1. – 2. (No change.)

(f) – (g) (No change.)

#### SUBCHAPTER 18. APPLICATION REQUIREMENTS

7:13-18.2 General application requirements



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(a) The Department provides a checklist for each type of application submitted under this subchapter. The checklist identifies all of the submissions required under the rules to be part of an application, and also the appropriate level of detail and the format of the information to be submitted for each type of application. For example, where the rules require, as part of an application, the submittal of [a site plan or] photographs showing certain types of information, the corresponding checklist will indicate, based on the type of development the particular permit covers, [the number of copies of the plan to be submitted, the scale and details of the information to be illustrated on the plan, and] the number and orientation of photographs of the location of the proposed development. [The checklist will also indicate that the plan should be folded or prepared in a certain manner to facilitate processing.] **Where the rules require the submittal of a site plan, the corresponding checklist will indicate, based on the type of development the particular permit covers, the scale and details of the information to be illustrated on the plan.** Checklists can be downloaded from the Department's website at <https://www.nj.gov/dep/landuse> or obtained by contacting the Department at the address set forth at N.J.A.C. 7:13-1.3.

(b) – (h) (No change.)

(i) Any professional report, survey, calculation, [environmental impact statement,] or other document prepared by a consultant, engineer, land surveyor, architect, attorney, scientist, or other professional and submitted as part of an application shall be certified in accordance with (j) below. This certification is separate from the certification of the application by the applicant.

**1. Stormwater management calculations, hydrologic calculations, hydraulic calculations, and flood storage displacement calculations shall be signed and sealed by a New Jersey licensed professional engineer.**

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**2. Structural stability calculations, hydrostatic and hydrodynamic loading calculations, and flood-proofing calculations shall be signed and sealed by a New Jersey licensed professional engineer or architect.**

(j) – (k) (No change.)

(l) When a proposed regulated activity or project requires more than one approval under this subchapter, or requires, in addition, an approval under the Coastal Zone Management Rules at N.J.A.C. 7:7 and/or the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A, an applicant may submit a single application for all of the approvals, except for an authorization under a general permit-by-certification **or a letter of interpretation under the Freshwater Wetlands Protection Act Rules**, provided that the application meets all application requirements of each such approval included.

**(m) Submission of an application under this chapter constitutes consent from the owner of the site allowing the Department to enter the site in a reasonable manner and at reasonable times to inspect the site. This consent shall continue in effect for the duration of the permit application review and decision process, including for the duration of any appeal made from the permit decision.**

7:13-18.3 Additional application requirements for an authorization under a general permit-by-certification

(a) An application for authorization under a general permit-by-certification shall be submitted electronically through the Department's online [permitting] system at <https://www.nj.gov/dep/online>.

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[(b) The online application for a general permit-by-certification requires an applicant to provide the following:]

**(b) In addition to meeting the requirements at N.J.A.C. 7:13-18.2, the applicant is required to provide the following in the online application for a general permit-by-certification:**

1. (No change.)
2. The name of or other identifier for the proposed [development] **regulated activity** or project;
3. The location of the proposed [development] **regulated activity** or project, including address, city, state, zip code, municipality, State plane coordinates, lot, and block, **as necessary**;
4. – 6. (No change.)
7. To accomplish the certification [under] **at (b)6** above, the PIN that was issued to the applicant upon registering with the Department’s online [permitting] system; and
8. (No change.)

(c) Once the online application process is successfully completed, the authorization will be accessible to the applicant through the Department’s online [permitting] system at <https://www.nj.gov/dep/online>.

7:13-18.4 Additional application requirements [for a verification,] for an authorization under a general permit[,] or for an individual permit

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**(a) An application for authorization under a general permit or for an individual permit shall be submitted electronically through the Department's online system at <https://nj.gov/dep/online>, including all application information and supporting documentation.**

**(b) In addition to meeting the requirements at N.J.A.C. 7:13-18.2, the applicant is required to provide the following in the online application for a general permit or individual permit:**

- 1. The number and subject matter of the general permit or individual permit under which the application is being submitted;**
  - 2. The name of or other identifier for the proposed regulated activity or project;**
  - 3. The location of the proposed regulated activity or project, including address, city, state, zip code, municipality, State plane coordinates, watershed information, lot, and block, as necessary;**
  - 4. Information specific to the proposed project related to the requirements of the authorization or permit under which the application is being submitted;**
  - 5. Contact information for the applicant, the property owner, any designated agent(s), and the municipal clerk for each municipality in which the project is located, including: name, address, telephone number, email address, municipality, county, organization, and organization type;**
  - 6. The PIN that was issued to the applicant upon registering with the Department's online system;**
- and**
- 7. The appropriate application fee set forth at N.J.A.C. 7:13-20.**

**[(a)] (c) In addition to meeting the requirements at [N.J.A.C. 7:13-18.2] (b) above, an application [for a verification,] for an authorization under a general permit[,] or for an individual permit shall include**

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the following [material,] **digital documents, which must be uploaded to the online service** in the [number and] format specified in the appropriate application checklist:

[1. A completed application form, available from the Department at the address set forth at N.J.A.C. 7:13-1.3. This form requires basic information regarding the proposed delineation, regulated activity, or project, including the name and address of the applicant and any designated agent(s), the specific location of the delineation, regulated activity, or project, the types of approvals being sought, a brief description of the proposed delineation, activity, or project, and certifications as to the truth and accuracy of the information provided and as to the ownership of the property;]

**1. A completed Property Owner Certification form(s) signed by the applicant and all individuals required to certify to the application in accordance with N.J.A.C. 7:13-18.2(d). The Property Owner Certification form is available from the Department at the address set forth at N.J.A.C. 7:13-1.3;**

2. Documentation that public notice of the application has been provided in accordance with N.J.A.C. 7:13-19, **including a completed Public Notice form, available from the Department at the address set forth at N.J.A.C. 7:13-1.3;**

[3. The appropriate application fee as set forth at N.J.A.C. 7:13-20;]

**3. Site location maps, including the following:**

**i. A copy of the tax map for the property;**

**ii. A copy of the portion of the county road map showing the property location; and**

**iii. A copy of the USGS quad map(s) that includes the site, with the site clearly outlined to scale;**

4. (No change.)

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[5. State plane coordinates for a point at the approximate center of the site, except for a delineation or a linear activity or project as provided at (a)5i below. The accuracy of the State plane coordinates shall be within 50 feet of the actual center point for the site.

i. State plane coordinates shall be provided for a delineation of a flood hazard area or riparian zone, or a linear activity or project, such as a roadway, utility, stream bank stabilization project, or sediment and debris removal project, as follows:

(1) For a delineation or a linear activity or project of one-half mile or more in length, the State plane coordinates shall include the coordinates for the end points of the delineation or linear activity or project and the coordinates for points located at 1,000-foot intervals along the entire length of the delineation or linear activity or project; and

(2) For a delineation or a linear activity or project of less than one-half mile in length, the State plane coordinates shall include the coordinates for the end points of the delineation or linear activity or project.]

[6.] **5.** In addition to the site plan specified at [(a)4] **(c)4** above, other visual representations, such as photographs, graphs, **maps**, and tables, that illustrate existing site conditions and the proposed delineation, activity or project;

[7.] **6.** (No change in text.)

[8. Information about the anticipated impacts of the proposed activity or project, including any monitoring or reporting methods that will be used;]

[9.] **7.** (No change in text.)

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[10. Consent from the owner of the site allowing the Department to enter the site in a reasonable manner and at reasonable times to inspect the site. This consent shall continue in effect for the duration of the application review and decision process, including for the duration of any appeal made from the decision on the application.]

**8. A copy of all conservation restrictions that impact any portion of the site that is the subject of the application.**

Recodify existing (b) – (c) as **(d) – (e)** (No change in text.)

#### **7:13-18.5 Additional application requirements for a verification**

**(a) Applications for verifications submitted concurrently with any of the following application types shall be submitted electronically through the Department’s online system at <https://nj.gov/dep/online>, including all application information and supporting documentation, and shall be subject to the application requirements at N.J.A.C. 7:13-18.4(b) and (c):**

- 1. A general permit authorization under this chapter, the Coastal Zone Management Rules, N.J.A.C. 7:7, or the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A;**
- 2. An individual permit under this chapter, the Coastal Zone Management Rules, N.J.A.C. 7:7, or the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A; or**
- 3. A transition area waiver under the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A.**

**(b) Applications for verifications submitted independently from any of the applications listed at (a) above shall be submitted to the address set forth at N.J.A.C. 7:13-1.3(c)2. In addition to meeting**

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**the requirements at N.J.A.C. 7:13-18.2, they shall include the following material, in the number and format specified in the appropriate application checklist:**

- 1. A completed application form as described at N.J.A.C. 7:13-22.3(c)1 and available from the Department at the address set forth at N.J.A.C. 7:13-1.3;**
- 2. Documentation that public notice of the application has been provided in accordance with N.J.A.C. 7:13-19;**
- 3. The appropriate application fee as set forth at N.J.A.C. 7:13-20;**
- 4. Site plans, certified in accordance with N.J.A.C. 7:13-18.2(i), that include the following, both on and adjacent to the site:**
  - i. Existing features, such as lot lines, structures, land coverage, and vegetation, which are necessary to demonstrate that the proposed delineation meets the requirements of this chapter;**
  - ii. Existing topography, where necessary, to demonstrate that the proposed delineation meets the requirements of this chapter. All topography shall reference NGVD or include the appropriate conversion factor to NGVD;**
  - iii. The location of any riparian zone onsite;**
  - iv. A metes and bounds description of any existing and proposed flood hazard area and floodway limits onsite, as well as an indication of which method at N.J.A.C. 7:13-3 was used to determine these limits, unless the applicant is seeking a verification of only the riparian zone;**
  - v. If the entire site lies within a flood hazard area and/or floodway, the site plans shall indicate this, as well as the elevation(s) of the flood hazard area design flood throughout the site;**



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**5. State plane coordinates for a point at the approximate center of the site, except for a delineation or a linear activity or project as provided at (b)5i below. The accuracy of the State plane coordinates shall be within 50 feet of the actual center point for the site.**

**i. State plane coordinates shall be provided for a delineation of a flood hazard area or riparian zone, or a linear activity or project, such as a roadway, utility, stream bank stabilization project, or sediment and debris removal project, as follows:**

**(1) For a delineation or a linear activity or project of one-half mile or more in length, the State plane coordinates shall include the coordinates for the end points of the delineation or linear activity or project and the coordinates for points located at 1,000-foot intervals along the entire length of the delineation or linear activity or project; and**

**(2) For a delineation or a linear activity or project of less than one-half mile in length, the State plane coordinates shall include the coordinates for the end points of the delineation or linear activity or project;**

**6. In addition to the site plan specified at (b)4 above, other visual representations, such as photographs, graphs, maps, and tables, that illustrate existing site conditions and the proposed delineation;**

**7. Calculations, analyses, data, and supporting materials necessary to demonstrate that the proposed delineation meets the requirements of this chapter, and the requirements of the Department's Stormwater Management rules at N.J.A.C. 7:8, if applicable; and**

**8. Any information necessary to ensure compliance with State and/or Federal law, and/or to determine whether an application for a verification meets State and/or Federal standards.**

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**7:13-18.6 Compliance statement requirement for an application for authorization under a general permit**

**(a) In addition to the requirements at N.J.A.C. 7:13-18.2 and 18.4, an application for authorization under a general permit shall include a compliance statement. The compliance statement is a narrative, which shall:**

**1. Demonstrate that the proposed regulated activity or project satisfies the requirements of the applicable general permit;**

**2. Demonstrate that the proposed regulated activity or project satisfies the requirements at N.J.A.C. 7:13-6.7; and**

**3. Describe the characteristics of the site and the location of all proposed regulated activities, potential impacts from the construction process, and, as applicable, the operation of the regulated activities after completion and any monitoring or reporting methods that will be used.**

**7:13-[18.5]18.7 Engineering report requirement for an application for a verification based on Methods 4, 5, or 6 or for an individual permit**

**(a) In addition to the requirements at N.J.A.C. 7:13-18.2 and 18.4 or 18.5, as applicable, an application for a verification based on Methods 4, 5, or 6, pursuant to N.J.A.C. 7:13-3.4(f), 3.5, and 3.6, respectively, or for an individual permit shall include an engineering report. The engineering report shall include:**

**1. – 9. (No change.)**

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7:13-[18.6]**18.8** Environmental report requirement for an application for an individual permit

(a) In addition to meeting the requirements at N.J.A.C. 7:13-18.2, 18.4, and [18.5] **18.7**, an application for an individual permit shall include an environmental report. The environmental report shall include:

1. – 2. (No change.)

3. An analysis of any potential temporary and/or permanent adverse environmental impact(s), whether onsite or offsite, of the proposed regulated activity or project on regulated waters, channels, riparian zones, fishery resources, and threatened or endangered species and their habitat. The analysis shall include:

i. – ii. (No change.)

iii. A description of all measures to be taken to reduce any potential adverse environmental impact(s) to the resources listed at (a)3 above; [and]

iv. A plan to mitigate the effects of all adverse environmental impacts[.]; **and**

**v. Any monitoring or reporting methods that will be used.**

(b) (No change.)

SUBCHAPTER 19. REQUIREMENTS FOR AN APPLICANT TO PROVIDE PUBLIC NOTICE OF AN APPLICATION

7:13-19.3 Contents and recipients of public notice of an application

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(a) For any of the applications listed [in] at N.J.A.C. 7:13-19.1(a), the applicant shall provide a copy of the entire application, as submitted to the Department, to the municipal clerk in each municipality in which the site is located.

**1. For applications submitted electronically, the applicant shall provide to the applicable municipal clerk(s) a description of the project, the specific permit(s)/authorization(s) being sought, and all items that will be uploaded to the online service, including all required items on the appropriate application checklist.**

(b) – (e) (No change.)

(f) An application for a verification, authorization under a general permit, individual permit, or major technical modification for a delineation, regulated activity, or project in the Pinelands Area as designated under the Pinelands Protection Act at N.J.S.A. 13:18A-11.a shall provide [a copy of the completed application form as submitted to the Department,] **public notice** to the New Jersey Pinelands Commission[.] **as follows:**

**1. For an application for an authorization under a general permit, an individual permit, or a verification in accordance with N.J.A.C. 7:13-18.5(a), a description of the project, including the lot, block, municipality, and county, and the specific permit(s)/authorization(s) being sought; or**

**2. For an application for a verification in accordance with N.J.A.C. 7:13-18.5(b) or a major technical modification, a copy of the completed application form as submitted to the Department.**

## SUBCHAPTER 20. APPLICATION FEES

### 7:13-20.1 Application fees

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(a) – (b) (No change.)

(c) [All application] **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.”] **as follows:**

**1. For applications submitted electronically, application fees shall be paid through the online service by credit card or e-check, or for applications for general permits, individual permits, or verifications in accordance with N.J.A.C. 7:13-18.5(a), the applicant may elect to receive a bill that shall be payable directly to the New Jersey Department of the Treasury; or**

**2. For all other applications, 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) – (e) (No change.)

## SUBCHAPTER 21. APPLICATION REVIEW

### 7:13-21.2 Completeness review

(a) Within 20 working days after receiving an application for a verification, an application for authorization under a general permit, or an application for an individual permit, where day one of the 20-working-day period is the date the application is received, the Department shall take one of the following actions:

1. – 2. (No change.)

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3. Determine the application is administratively incomplete and [return the application] **issue notification to the applicant in writing that the application is administratively incomplete. This notification shall specify the additional information required and the deadline by which the information must be submitted.**

**(b) Within 15 calendar days after receiving the additional information submitted pursuant to (a)3 above for an administratively incomplete application, the Department shall take one of the following actions:**

**1. Determine that the application is both administratively and technically complete and issue notification to the applicant in writing that the application is complete for review, effective as of the date the Department received the application;**

**2. Determine that the application is administratively complete but technically incomplete and issue notification to the applicant in writing that the application is technically incomplete. This notification shall specify the additional information required and the deadline by which the information must be submitted; or**

**3. Determine that the additional information is not sufficient and issue notification to the applicant in writing that the application remains administratively incomplete. The notification shall specify the additional information required and the deadline by which the additional information must be submitted.**

**[(b)] (c) Within 15 calendar days after receiving the additional information submitted pursuant to (a)2 or (b)2 above for a technically incomplete application, the Department shall take one of the following actions:**

1. – 2. (No change.)

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[(c)] **(d)** The applicant shall send the additional information submitted to the Department pursuant to (a)2 [and] **or 3**, (b)2 **or 3**, **or (c)2** above to the municipal clerk of each municipality in which the project is located and shall provide notice explaining that additional information has been submitted to the Department to any person listed at N.J.A.C. 7:13-19.3(b) whom the Department determines would likely be affected by the additional information. The applicant shall provide documentation in accordance with N.J.A.C. 7:13-19.5 that the additional information and notice were provided.

[(d)] **(e)** An applicant shall submit all additional information pursuant to (a)2 **or 3**, (b)2 **or 3**, **or (c)2** above within 90 calendar days after the date of the Department request, unless the Department specifies a different deadline in the request. If the applicant does not submit the additional information by the deadline, the Department shall, in accordance with N.J.A.C. 7:13-21.5, cancel the application or, if the applicant demonstrates good cause for the delay in providing the requested information, extend the time to submit the information.

[(e)] **(f)** (No change in text.)

[(f)] **(g)** If the Department does not take one of the actions in (b) **or (c)** above within 15 calendar days after receiving additional information submitted for [a] **an administratively or** technically incomplete application, the application shall be declared complete for review, effective as of the date the additional information was received by the Department, and the Department shall make a decision to approve or deny the application by the applicable deadline set forth at N.J.A.C. 7:13-21.3.

Recodify existing (g) – (h) as **(h) – (i)** (No change in text.)

7:13-21.3 Department decision on an application that is complete for review

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(a) – (b) (No change.)

(c) If the Department does not make a decision to approve or deny an [application for a verification,] application for authorization under a general permit or **an** application for an individual permit by the applicable deadline set forth in (a) or (b) above, the application shall be deemed to have been approved as of that deadline. Regulated activities shall not commence unless and until all required tidelands instrument(s) to use and occupy State-owned tidelands are obtained.

1. (No change.)

2. [A verification,] **An** authorization[, ] or individual permit issued under this subsection shall not prevent the Department from taking enforcement action pursuant to N.J.A.C. 7:13-24 for any activity undertaken in violation of this chapter.

(d) The Department shall provide notice of the decision on an application for [a verification, application for] **an** authorization under a general permit[, ] or **an** application for an individual permit in the DEP Bulletin and to any person who specifically requested notice of the decision on a particular application.

(e) (No change.)

#### 7:13-21.5 Cancellation of an application

(a) The Department shall cancel an application for any of the following reasons:

1. An applicant does not submit additional information within the timeframe prescribed by the Department under this subchapter for an application that has been determined to be **administratively** or technically incomplete;



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2. – 3. (No change.)

(b) (No change.)

7:13-21.8 Fee refund or credit when an application is [returned,] withdrawn or cancelled

(a) Except as provided [in] **at** (b) below, the Department shall, upon written request of an applicant, fully refund the submitted application fee in the following circumstances:

1. The application is [returned because it] **withdrawn within 60 calendar days of its submittal to the Department and** is not administratively complete;

2. – 3. (No change.)

(b) (No change.)

(c) If an application is withdrawn by the applicant under circumstances other than those identified at [(a)2] **(a)1, 2, and 3** above, or is cancelled [under] **pursuant to** N.J.A.C. 7:13-21.5, any application fee that was paid to the Department shall be credited toward the application fee for one new application, provided the new application is submitted:

1. – 4. (No change.)

## SUBCHAPTER 22. PERMIT CONDITIONS; EXTENSION, MODIFICATION, TRANSFER, SUSPENSION, AND TERMINATION OF VERIFICATIONS, AUTHORIZATIONS, AND PERMITS

7:13-22.3 Extension of a verification, an authorization under a general permit, and an individual permit

(a) – (b) (No change.)

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(c) A request for an extension of a verification, an authorization under a general permit, or an individual permit shall include:

1. A completed application form [as described at N.J.A.C. 7:13-18.4(a)1 and] available from the Department at the address set forth at N.J.A.C. 7:13-1.3[;]. **This form requires basic information regarding the proposed delineation, regulated activity, or project, including the type of application being submitted, the name and address of the applicant and any designated agents, the specific location of the delineation, regulated activity, or project, a brief description of the proposed delineation, activity, or project, and certifications as to the truth and accuracy of the information provided and as to the ownership of the property;**

2. – 3. (No change.)

(d) – (g) (No change.)

#### 7:13-22.6 Application for a modification

(a) – (b) (No change.)

(c) To apply for a minor technical modification of a verification, an authorization under a general permit, or an individual permit [under] **pursuant to** N.J.A.C. 7:13-22.5(d), the person requesting the modification shall submit:

1. A completed application form as described at N.J.A.C. 7:13-[18.4(a)1]**22.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:13-1.3;

2. – 8. (No change.)

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(d) To apply for a major technical modification of a verification, an authorization under a general permit, or an individual permit [under] **pursuant to** N.J.A.C. 7:13-22.5(e), the person requesting the modification shall submit:

1. A completed application form as described at N.J.A.C. 7:13-[18.4(a)1]**22.3(c)1** and available from the Department at the address set forth at N.J.A.C. 7:13-1.3;

2. – 11. (No change.)