

7:13-1.2 Definitions

“Actively disturbed area” means:

- 1. Any expanse of land occupied by a structure or other impervious surface, as these terms are defined below. An area that was previously developed with a structure or other impervious surface, which has been removed within the past five years, remains an actively disturbed area.**
- 2. Any expanse of land from which vegetation has been lawfully cleared, cut, removed or otherwise altered by humans to accommodate an ongoing land use, such as an actively farmed area, easement, garden, lawn, park, and right-of-way, provided these areas have been periodically maintained within the past five years, such as through seasonal mowing or cultivation. An area containing trees or other woody vegetation is not an actively disturbed area.**

“Barrier island complex” means the series of land surrounded by both bay and ocean, including barrier islands, spits and peninsulas, situated along New Jersey’s Atlantic coastline, extending from the northern tip of Sandy Hook, in Monmouth County, to the southern tip of Cape May County. The barrier island complex includes the barrier island corridor, as defined in the Department’s Coastal Zone Management rules at N.J.A.C. 7:7E-3.20, as well as any associated wetland complex adjacent to the corridor. A barrier island is a long, narrow island that generally lies parallel to the mainland and serves to protect the coast from erosion. A spit is a long, narrow depositional landform projecting outward from the shoreline associated with a barrier island corridor. A peninsula is narrow land surrounded by both bay and ocean waters and connected to the mainland. The barrier island complex does not include bay islands, which are islands or filled areas surrounded by tidal waters, wetlands, beaches or dunes, lying between the mainland and barrier island, but which may be connected to the mainland or barrier island by elevated or fill-supported roads. The entire Cape May peninsula is not part of the barrier island complex, but Cape May does include barrier islands, spits and peninsulas along its Atlantic coastline.

“Forested” means that tree species with an average height greater than 20 feet are the predominant vegetation present.

“Redevelopment” means the construction of structures or improvements on an impervious surface or within a significantly disturbed area, as these terms are defined in this section.

“Significantly disturbed area” means a portion of land within a riparian zone, wherein the typical benefits and functions of a riparian zone are considerably deteriorated and impaired as a result of previous, lawful development. Examples of areas that can be deemed significantly disturbed include abandoned pavement that has partially revegetated, areas of dirt and gravel that are primarily devoid of vegetation, eroded embankments, areas primarily covered with rock or structures, and landscape islands within a paved parking area.

7:13-2.2 Regulated waters

(a) All waters in New Jersey are regulated under this chapter except for the following:

1. Any manmade canal;
2. In accordance with N.J.S.A. 58:16A-60, any coastal wetland regulated under the Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.); **[and]**
3. Any segment of water that has a drainage area of less than 50 acres, provided one or more of the following applies:
 - i. The water has no discernible channel, **such as a “swale” as defined in the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A-1.4;**
 - ii. **The water is not a “State open water” as defined in the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A-1.4, such as a manmade ditch, basin, pond or pool, provided the water is lawfully existing and is fully of human origin. A water that historically possessed a naturally-occurring, discernible channel, which has been relocated, straightened or otherwise modified by humans such that it appears artificial, does not qualify for this subparagraph;**
 - iii. The water is confined within a lawfully existing, manmade conveyance structure **[or drainage feature]**, such as a pipe~~[,]~~**or culvert[, ditch, channel or basin (not including any)]. A water that historically possessed a naturally-occurring, discernible channel, which has been piped, culverted, [ditched] or similarly modified[)]by humans, does not qualify for this subparagraph;** and/or
 - [iii.]iv.** The water is not connected to a regulated water by a channel or pipe, such as an isolated pond or depression that has no outlet~~[.];~~ **and**
4. **Any water-filled depression created in dry land incidental to construction or remediation activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of “waters of the United States” in the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A-1.4.**

(b) Any water not listed in (a)1 though 4 above is a regulated water for the purposes of this chapter, and may possess a flood hazard area and/or a riparian zone under N.J.A.C. 7:13-2.3.

7:13-2.3 Regulated areas

(a) For each regulated water, as described at N.J.A.C. 7:13-2.2, the Department identifies and regulates the water and the area surrounding it in two different ways, resulting in the regulated areas described at **[(a)1 and 2] (b) and (c)** below~~[.]~~. **Any feature that is not a regulated water under N.J.A.C. 7:13-2.2 is not subject to this chapter and does not possess any flood hazard area or riparian zone.**

[1.] (b) A flood hazard area exists along every regulated water that has a drainage area of 50 acres or more. If a regulated water has a drainage area of less than 50 acres, the water does not have a flood hazard area that is regulated under this chapter.

1. The flood hazard area is comprised of a flood fringe and a floodway, except for the Atlantic Ocean and other non-linear tidal waters such as bays and inlets, which do not have a floodway. Therefore, the entire flood hazard area along these tidal waters is

considered to be a flood fringe for the purposes of this chapter.

2. The methods for determining the limits of the flood fringe and floodway are described at N.J.A.C. 7:13-3[; and].

[2. A riparian zone exists along every regulated water, except there is no riparian zone along Atlantic Ocean nor along any manmade lagoon, stormwater management basin, or oceanfront barrier island, spit or peninsula. The regulated water itself is also part of the riparian zone. The methods for determining the limits of the riparian zone are described at N.J.A.C. 7:13-4.1.]

(c) A riparian zone exists along both sides of every regulated water, and includes the regulated water itself, except as described in (c)1 below.

1. **There is no riparian zone on or along the following:**
 - i. **The Atlantic Ocean;**
 - ii. **New Jersey's barrier island complex, as defined at N.J.A.C. 7:13-1.2;**
 - iii. **Any lawfully existing manmade lagoon;**
 - iv. **Any segment of a regulated water enclosed within a lawfully existing pipe, culvert or bridge; and**
 - v. **Any segment of a regulated water that does not meet the definition of a "State open water" under the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A-1.4, except that drainage and irrigation ditches not lined with concrete, rock or other impervious surface possess a riparian zone.**
2. **The methods for determining the limits of the riparian zone are described at N.J.A.C. 7:13-4.**

7:13-4.1 The riparian zone

(a) A riparian zone exists along every regulated water, except [there is no riparian zone along the Atlantic Ocean nor along any manmade lagoon, stormwater management basin, or oceanfront barrier island, spit or peninsula] **those listed at N.J.A.C. 7:13-2.3(c).**

(b) The riparian zone includes:

1. [the] **The** land and vegetation within each regulated water described in (a) above[, as well as the]; **and**
2. **The** land and vegetation within a certain distance of each regulated water [as described in (c) below] **described in (a) above.** The portion of the riparian zone that lies outside of a regulated water is measured landward from the top of bank, **except as described in (c) below. The width of the riparian zone is described at (d) below.**

(c) If [a discernible bank is not present] the top of bank along a regulated water **is not discernible**, the portion of the riparian zone outside the regulated water is measured landward as follows:

1. Along a linear [fluvial or tidal] water **that has a drainage area of less than 1 square mile**, such as a **small brook or** stream, the riparian zone is measured landward of the feature's centerline;

2. **Along a linear [fluvial or tidal] water that has a drainage area of 1 square mile or more, such as a large stream or river, the riparian zone is measured landward of the limits of the 2-year flood within the feature, which approximates bank-full flow. In rivers that contain water at all times, the riparian zone can alternatively be measured landward of the normal water surface limit;**

[2.] 3. Along a non-linear fluvial water, such as a lake or pond, the riparian zone is measured landward of the normal water surface limit;

[3.] 4. Along a non-linear tidal water, such as a bay or inlet, the riparian zone is measured landward of the mean high water; and

[4.] 5. Along an amorphous **or irregularly**-shaped feature, such as a wetland complex, through which a regulated water flows but which lacks a discernible channel, the riparian zone is measured landward of the feature's centerline.

[(c)](d) The width of the riparian zone along each regulated water described in (a) above is as follows:

1. The riparian zone is 300 feet wide along both sides of any **regulated water designated as a Category One water**, and all upstream **[tributaries] regulated waters** situated within the same HUC-14 watershed;

2. The riparian zone is 150 feet wide along both sides of the following **regulated** waters not identified in [(c)](d)1 above:

i. Any trout production water and all upstream **[waters (including tributaries)] regulated waters;**

ii. Any trout maintenance water and all upstream **[waters (including tributaries) within one linear mile as measured along the length of the regulated water;] regulated waters located within one mile of a trout maintenance water (measured along the length of the channel);**

iii. Any segment of a water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the regulated water for survival, and all upstream **[waters (including tributaries) within one linear mile as measured along the length of the regulated water;] regulated waters located within one mile of such habitat (measured along the length of the channel); and**

[iv. Any segment of a water flowing through an area that contains acid producing soils; and]

3. The riparian zone is 50 feet wide along both sides of all **regulated** waters not identified in [(c)](d)1 or 2 above.

(e) In cases where a regulated water naturally forms, begins or ends within a site, the riparian zone arcs around the end of the feature. Figure 4.1A below depicts examples of the riparian zone in such a case.

(Insert Figure 4.1A)

(f) In cases where a roadway or railroad crosses over a lawfully existing pipe, culvert or

bridge, the riparian zone is truncated at the entrance and exit of the structure. The lines of truncation furthermore run parallel to the direction of traffic, and curve with the roadway, such that the roadway and its embankment are not located within a riparian zone. Figure 4.1B below depicts examples of the riparian zone in such a case.

(Insert Figure 4.1B)

(g) In the case where a regulated water enters or exits a lawfully existing pipe, culvert or bridge, which does not support a roadway or railroad as described in (f) above, the riparian zone is truncated at the entrance and exit of the structure, at a straight line that runs perpendicular to the predominant direction of the flow of water. Figure 4.1C below depicts examples of the riparian zone in such a case.

(Insert Figure 4.1C)

(h) In cases where a stormwater management basin has been constructed along a regulated water that possesses a riparian zone, the riparian zone continues to exist along the original course of the regulated water at its pre-construction location. Figure 4.1D below depicts examples of the riparian zone in such a case. Note that normal property maintenance for stormwater management basins located within riparian zones is authorized under the permit-by-rule at N.J.A.C. 7:13-7.2(b)1.

(Insert Figure 4.1D)

[(d)](i) The riparian zones established by this chapter are separate from and in addition to any other similar zones or buffers established to protect surface waters. For example, [the Stormwater Management rules at N.J.A.C. 7:8 and] the Highlands Water Protection and Planning Act rules at N.J.A.C. 7:38 establish 300-foot [Special Water Resource Protection Areas and] buffers[, respectively,] along certain waters. Furthermore, the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A establish 50-foot and 150-foot transition areas along freshwater wetlands and other features that are also regulated under this chapter. Compliance with the riparian zone requirements of this chapter does not constitute compliance with the requirements [imposed under] of any other Federal, State or local statute, regulation or ordinance.]

7:13-10.2 Requirements for a regulated activity in a riparian zone

(a) This section sets forth specific design and construction standards that apply to any regulated activity proposed in a riparian zone, **which is not permitted-by-rule at N.J.A.C. 7:13-7**. The **regulated waters along which riparian zones exist, as well as the width of the riparian zone [is] along specific waters, are** set forth at N.J.A.C. 7:13-2.3(c) and 4.1, **respectively**.

[(b) The riparian zones established by this chapter are separate from and in addition to any other similar zones or buffers established to protect surface waters. For example, the Stormwater Management rules at N.J.A.C. 7:8 and the Highlands Water Protection and Planning Act rules at N.J.A.C. 7:38 establish 300-foot Special Water Resource Protection Areas and buffers, respectively, along certain waters. Furthermore, the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A establish 50-foot and 150-foot transition areas along freshwater wetlands and other features that are also regulated under this chapter. Compliance with the riparian zone requirements of this chapter does not constitute compliance with the requirements imposed under any other Federal, State or local statute, regulation or ordinance.]

(c) As used in this section, the total area of vegetation disturbed in a riparian zone shall include the following:

1. The area of any vegetation within the limit of disturbance shown on submitted drawings;
2. The area under the canopy of any trees to be cleared, cut or removed; and
3. All other areas from which any vegetation is to be temporarily or permanently cleared, cut or removed.

(d) The following table sets forth limits on the area of vegetation that can be disturbed for various regulated activities, provided the requirements for each activity as described in (e) through (r) below are satisfied, and provided the applicant demonstrates the following:

1. The basic purpose of the project cannot be accomplished onsite without disturbing vegetation in the riparian zone;
2. Disturbance to the riparian zone is eliminated where possible; where not possible to eliminate, disturbance is minimized through methods including relocating the project, reducing the size or scope of the project and/or situating the project in portions of the riparian zone where previous development or disturbance has occurred;
3. All temporarily cleared, cut or removed vegetation within a riparian zone is replanted with indigenous, non-invasive vegetation upon completion of the project in accordance with (u) below; and
4. All additional restrictions for the specific proposed activity described elsewhere in this chapter are satisfied. For example, while (o) below sets limits on disturbance to the riparian zone resulting from a flood control project, N.J.A.C. 7:13-11.12 includes further specific requirements to ensure that disturbance to the channel and riparian zone is avoided or minimized for such projects.

Table C

MAXIMUM ALLOWABLE DISTURBANCE TO RIPARIAN ZONE VEGETATION

| Proposed Regulated Activity | | See Paragraph Below for Further Detail | Maximum Area of Vegetation Disturbance Based on the Width of the Riparian Zone | | |
|---|----------------------|--|--|------------------------|------------------------|
| | | | 50-foot Riparian Zone | 150-foot Riparian Zone | 300-foot Riparian Zone |
| • Railroad or public roadway | | | | | |
| New | Crossing a water | (e) | 5,000 ft ² | 15,000 ft ² | 30,000 ft ² |
| | Not crossing a water | | 2,000 ft ² | 6,000 ft ² | 12,000 ft ² |
| Reconstructed | Crossing a water | (f) | 2,500 ft ² | 7,500 ft ² | 15,000 ft ² |
| | Not crossing a water | | 1,000 ft ² | 3,000 ft ² | 6,000 ft ² |
| • Private roadway that serves as a driveway to one private residence | | | | | |
| New | Crossing a water | (g) | 1,500 ft ² | 4,500 ft ² | 9,000 ft ² |

| | | | | | |
|--|----------------------|-----|--------------------------------------|-----------------------|------------------------|
| | Not crossing a water | | 600 ft ² | 1,800 ft ² | 3,600 ft ² |
| Reconstructed | Crossing a water | (h) | 750 ft ² | 2,250 ft ² | 4,500 ft ² |
| | Not crossing a water | | 300 ft ² | 900 ft ² | 1,800 ft ² |
| • All other private roadways | | | | | |
| New | Crossing a water | (g) | 3,000 ft ² | 9,000 ft ² | 18,000 ft ² |
| | Not crossing a water | | 1,200 ft ² | 3,600 ft ² | 7,200 ft ² |
| Reconstructed | Crossing a water | (h) | 1,500 ft ² | 4,500 ft ² | 9,000 ft ² |
| | Not crossing a water | | 600 ft ² | 1,800 ft ² | 3,600 ft ² |
| • Bank stabilization or channel restoration | | | | | |
| Accomplished with vegetation alone | | (i) | No limit if disturbance is justified | | |
| Other permanent disturbance | | | 2,000 ft ² | 2,000 ft ² | 2,000 ft ² |
| Other temporary disturbance | | | 1,000 ft ² | 3,000 ft ² | 6,000 ft ² |
| • Stormwater discharge (including pipe and conduit outlet protection) | | | | | |
| Permanent disturbance | | (j) | 1,000 ft ² | 1,000 ft ² | 1,000 ft ² |
| Temporary disturbance | | | 1,000 ft ² | 3,000 ft ² | 6,000 ft ² |
| • Utility line (temporary disturbance only) | | | | | |
| Crossing a water | | (k) | 2,000 ft ² | 6,000 ft ² | 12,000 ft ² |
| Not crossing a water | | (l) | 800 ft ² | 2,400 ft ² | 4,800 ft ² |
| • Other projects | | | | | |
| Private residence | | (m) | 2,500 ft ² | 5,000 ft ² | 5,000 ft ² |
| Addition, garage, barn or shed | | (n) | 1,000 ft ² | 2,000 ft ² | 2,000 ft ² |
| Flood control project | | (o) | 3,000 ft ² | 9,000 ft ² | 18,000 ft ² |
| Public accessway or public access area | | (p) | No limit if disturbance is justified | | |
| Water dependent development | | (q) | No limit if disturbance is justified | | |
| All other regulated activities | | (r) | 1,000 ft ² | 3,000 ft ² | 6,000 ft ² |

(b) The Department shall issue an individual permit for any regulated activity that results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

- 1. The basic purpose of the project cannot be accomplished onsite without disturbing vegetation in the riparian zone;**
- 2. Disturbance to riparian zone vegetation is minimized through methods including situating the project as far from any regulated water as feasible and limiting construction to areas devoid of vegetation, or to actively disturbed or significantly disturbed areas, as these terms are defined at N.J.A.C. 7:13-1.2, wherever possible;**
- 3. The requirements for each specific regulated activity described in (g) through (x) below are satisfied; and**
- 4. All additional requirements for each specific proposed regulated activity described elsewhere in this chapter are satisfied. For example, while (v) below sets limits on disturbance to the riparian zone resulting from a flood control project, N.J.A.C. 7:13-10.1 and 11.12 includes further specific requirements to ensure that disturbance to the channel and riparian zone is avoided or minimized for such projects.**

(c) The Department shall issue an individual permit for a regulated activity that results in clearing, cutting and/or removing vegetation within 25 feet of any top of bank or edge of water only in the following cases:

- 1. The regulated activity is situated within a lot that borders a tidal water, and the disturbance lies adjacent to a lawfully existing bulkhead, retaining wall or revetment;**
- 2. Disturbance to riparian zone vegetation is necessary to undertake riparian zone creation and enhancement activities, in accordance with this chapter; and/or**
- 3. Disturbance to riparian zone vegetation is necessary to construct, reconstruct or improve a structure that crosses or requires proximity to a regulated water.**
 - i. Examples of structures that cross a regulated water, which generally satisfy (c)3 above, include new and reconstructed infrastructure projects such as roadways, railroads, utility lines and footbridges.**
 - ii. Examples of structures that do not cross a regulated water, which generally satisfy (c)3 above, include stormwater discharges, bank stabilization projects, and improvements to existing infrastructure that are necessary to maintain public safety and which cannot feasibly be improved at a location greater than 25 feet from any top of bank or edge of water.**
 - iii. The construction of buildings, parking areas, trails, stormwater management facilities and all non-water dependent activities, as well as removing vegetation to store vehicles and equipment, generally do not satisfy (c)3 above.**

(d) The Department shall issue an individual permit for regulated activities within a riparian zone, only if any existing impervious surface on the site within 25 feet of any top of bank or edge of water is removed, and the riparian zone in this area is adequately stabilized and replanted with vegetation in accordance with (z) below, except as follows:

- 1. The proposed redevelopment is situated within a lot that borders a tidal water, and the disturbance lies adjacent to a lawfully existing bulkhead, retaining wall or revetment;**
- 2. The applicant demonstrates that removing and/or preventing the replacement of the existing impervious surface under (d) above would likely exacerbate flooding or erosion, expose hazardous substances or solid waste, or otherwise threaten public health, safety and welfare. In such a case, the riparian zone within 25 feet of the top of bank or edge of water shall be restored, stabilized and/or replanted to the extent feasible and safe;**
- 3. The applicant demonstrates that removing and/or preventing the replacement of the existing impervious surface under (d) above would prevent reasonable use or access to the site and/or cause an unreasonable burden upon the applicant. For example, pavement around an existing building, which lies within 25 feet of a top of bank or edge of water, may currently provide access to and around the building, which could not be removed without causing a conflict with local fire codes and/or interrupting normal access throughout the facility. In such a case, the riparian zone within 25 feet of the top of bank or edge of water shall be restored, stabilized**

and/or replanted to the extent feasible and safe; and/or

4. The applicant proposes to construct a public walkway within 25 feet of the top of bank or edge of water, provided the walkway is constructed of permeable material where feasible, and provided the remainder of the area within 25 feet of the top of bank or edge of water is restored, stabilized and replanted to the extent feasible and safe (except as provided under (d)2 and 3 above).

(e) Table 10.2 below establishes limits on the area of riparian zone vegetation that can be cleared, cut and/or removed for various regulated activities. Subsection (f) below lists regulated activities that are not subject to the numeric limits of this table. Subsections (g) through (x) below describe additional requirements for each regulated activity, and in some cases require compensation under (y) below for riparian zone disturbance in excess of Table 10.2 and/or in other situations. The following guidelines apply to the use of this table:

1. In order to determine compliance with Table 10.2 below, the total area of vegetation disturbed in a riparian zone shall include the following:
 - i. The area of any vegetation within the project's limit of disturbance shown on submitted drawings;
 - ii. The area under the canopy of any trees to be cleared, cut or removed; and
 - iii. All other areas not included under (e)1i or ii above, from which vegetation is to be temporarily or permanently cleared, cut or removed;
2. Except for activities under (n) below for residential additions and appurtenant structures, the areas of disturbance listed in Table 10.2 apply to each individual occurrence of a proposed regulated activity on a site or as part of a project. For example, Table 10.2 establishes limits on the amount of vegetation that can be disturbed for a stormwater outfall structure within a riparian zone. A person can obtain a permit for multiple stormwater outfall structures on a site, provided the limits in Table 10.2 for each individual outfall structure are met; and
3. A person can obtain multiple permits on a site to conduct any number of regulated activities described in Table 10.2, provided the requirements of this chapter are met for each separate regulated activity.

Table 10.2

**ALLOWABLE DISTURBANCE TO RIPARIAN ZONE VEGETATION
(WITHOUT COMPENSATION)**

| Regulated Activity | | See Subsection Below for Additional Requirements | Allowable Disturbance Based on the Width of the Riparian Zone | | | |
|---|----------------------|--|---|--------------------------------------|------------------------|------------------------|
| | | | 50-foot Riparian Zone | 150-foot Riparian Zone | 300-foot Riparian Zone | |
| • Railroad or roadway | | | | | | |
| New | Crossing a water | (g) | 5,000 ft ² | 15,000 ft ² | 30,000 ft ² | |
| | Not crossing a water | | 2,000 ft ² | 6,000 ft ² | 12,000 ft ² | |
| Reconstructed | Crossing a water | | 2,500 ft ² | 7,500 ft ² | 15,000 ft ² | |
| | Not crossing a water | | 1,000 ft ² | 3,000 ft ² | 6,000 ft ² | |
| • Private roadway that serves as a driveway to one private residence | | | | | | |
| New | Crossing a water | | (h) | 1,500 ft ² | 4,500 ft ² | 9,000 ft ² |
| | Not crossing a water | 600 ft ² | | 1,800 ft ² | 3,600 ft ² | |
| Reconstructed | Crossing a water | 750 ft ² | | 2,250 ft ² | 4,500 ft ² | |
| | Not crossing a water | 300 ft ² | | 900 ft ² | 1,800 ft ² | |
| • All other private roadways | | | | | | |
| New | Crossing a water | (h) | | 3,000 ft ² | 9,000 ft ² | 18,000 ft ² |
| | Not crossing a water | | 1,200 ft ² | 3,600 ft ² | 7,200 ft ² | |
| Reconstructed | Crossing a water | | 1,500 ft ² | 4,500 ft ² | 9,000 ft ² | |
| | Not crossing a water | | 600 ft ² | 1,800 ft ² | 3,600 ft ² | |
| • Bank stabilization and riparian zone restoration | | | | | | |
| Areas stabilized with vegetation | | | (i) | No limit if disturbance is justified | | |
| Bank stabilized with hard armoring | | 10 ft ² per linear foot of armoring | | | | |
| Access to the project | | 1,000 ft ² | | 3,000 ft ² | 6,000 ft ² | |
| • Stormwater discharge | | | | | | |
| Headwall and outlet protection | | (j) | 2,000 ft ² | 2,000 ft ² | 2,000 ft ² | |
| Stormwater pipe | | | 1,000 ft ² | 3,000 ft ² | 6,000 ft ² | |
| • Utility line | | | | | | |
| New | Crossing a water | (k) | 2,000 ft ² | 6,000 ft ² | 12,000 ft ² | |
| | Not crossing a water | | 800 ft ² | 2,400 ft ² | 4,800 ft ² | |
| Reconstruction and maintenance | | (l) | 2,000 ft ² | 6,000 ft ² | 12,000 ft ² | |
| • Private residence | | | | | | |
| New | | (m) | 3,500 ft ² | 7,000 ft ² | 7,000 ft ² | |
| Reconstruction | | | Existing footprint plus 2,000 ft ² or area for new residence, whichever is greater | | | |
| Addition (cumulative) | | (n) | No more than 2,000 ft ² for all additions | | | |
| Appurtenant structure (cumulative) | | | No more than 4,000 ft ² for all structures | | | |
| Subsurface sewage disposal system | | (o) | 5,000 ft ² | 10,000 ft ² | 10,000 ft ² | |
| • Tidal development | | | | | | |

| | | | | |
|---|-----|---|-----------------------|------------------------|
| Public access | (p) | No limit if disturbance is justified | | |
| Water dependent development | (q) | No limit if disturbance is justified | | |
| • Other projects | | | | |
| Hazardous substance remediation | (r) | No limit if disturbance is justified | | |
| Solid waste facility closure | (s) | No limit if disturbance is justified | | |
| Trail or boardwalk | (t) | 6 ft ² per linear foot of trail | | |
| Footbridge | (u) | 1,000 ft ² | 1,000 ft ² | 1,000 ft ² |
| Flood control project | (v) | 3,000 ft ² | 9,000 ft ² | 18,000 ft ² |
| Redevelopment | (w) | No limit if disturbance is justified | | |
| All other regulated activities not listed in this table above | (x) | All disturbance to vegetation requires compensation under (y) below | | |

(f) The following are not subject to the numeric limitations of Table 10.2 above, and should not be considered when computing the total area of riparian zone vegetation that a project will disturb under (e)1 above:

1. **The cumulative net loss of up to one-quarter acre of riparian zone vegetation within an actively disturbed area, as defined at N.J.A.C. 7:13-1.2, per site since November 5, 2007;**
 - i. **Cumulative net loss under (f)1 above does not include disturbance to riparian zone vegetation prior to November 5, 2007, and shall be calculated according to each site as it existed on November 5, 2007. The subdivision, sale or transfer or ownership of a site after November 5, 2007, does not reduce or increase the area of riparian zone disturbance allowed under this paragraph.**
 - ii. **Any cumulative net-loss in excess of one-quarter acre of actively disturbed riparian zone vegetation per site is subject to the numeric limitations of Table 10.2 below. For example, if a person undertook a regulated activity authorized under a permit-by-rule in 2008, which resulted in a net-loss of 0.20 acres of actively disturbed riparian zone vegetation, and a person on the same site now proposes a new regulated activity, which will result in an additional net-loss of 0.10 acres of actively disturbed riparian zone vegetation, only 0.05 acres of actively disturbed riparian zone vegetation is subject to the numeric limitations of Table 10.2 below (since $0.20 + 0.10 - 0.25 = 0.05$);**
2. **Any regulated activity that will not result in clearing, cutting and/or removing riparian zone vegetation, such as construction or redevelopment on lawfully existing impervious surfaces, within dirt or gravel roadways and parking areas. Areas containing vegetation some or all of the year, such as agricultural areas that are periodically plowed and cultivated, do not qualify for this paragraph;**
3. **Converting vegetation within an actively disturbed area, as defined at N.J.A.C. 7:13-1.2, from one type to another, such as converting an actively farmed area into a lawn or garden;**
4. **Removing non-native, invasive vegetation, provided:**
 - i. **Trees are not cleared, cut and removed; and**

- ii. All disturbed areas are adequately stabilized and replanted with vegetation in accordance with (z) below;
- 5. Any disturbance to vegetation within an actively disturbed area, as defined at N.J.A.C. 7:13-1.2, situated within a lot that borders a tidal water, provided the disturbance lies adjacent to a lawfully existing bulkhead, retaining wall or revetment;
- 6. Any disturbance to vegetation along a manmade ditch, provided:
 - i. The disturbance does not lie within the riparian zone of another, naturally-occurring regulated water;
 - ii. The disturbance lies within an actively disturbed area, as defined at N.J.A.C. 7:13-1.2; and
 - iii. The disturbance is situated as follows:
 - (1) More than 25 feet from the ditch, within a 50-foot riparian zone;
 - (2) More than 75 feet from the ditch, within a 150-foot riparian zone; or
 - (3) More than 150 feet from the ditch, within a 300-foot riparian zone;
- 7. Any temporary disturbance to vegetation within an actively disturbed area, as defined at N.J.A.C. 7:13-1.2, provided all disturbed areas are adequately stabilized and replanted with vegetation in accordance with (z) below within six months of disturbance; and
- 8. Any regulated activity along a public roadway, provided:
 - i. The activity is not located within a forested area, as defined at N.J.A.C. 7:13-1.2;
 - ii. The activity is located within an existing right-of-way or easement;
 - iii. The activity is undertaken by a public entity and is necessary for the continued, safe use of the roadway; and
 - iv. The activity is situated on an existing roadway embankment, or within an area adjacent to an existing roadway, which was disturbed for the initial construction of the roadway.

[(e)] (g) The Department shall issue an individual permit for the construction of a new railroad or public roadway, **or the expansion, reconstruction or improvement of a lawfully existing railroad or public roadway**, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in **[Table C] Table 10.2** above **unless the applicant demonstrates that compliance with all Federal, State and local roadway standards cannot be achieved without exceeding these limits. In such a case, the applicant shall provide compensation for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below;**
2. The width of the railroad or public roadway is minimized;

3. Any crossing of a regulated water is designed and constructed as nearly perpendicular to the channel as possible; and
4. If the project impacts a 150-foot or 300-foot riparian zone, the applicant demonstrates that there is a compelling public need to construct the new railroad or public roadway, which cannot be satisfied without impacting the riparian zone. This demonstration shall include an analysis of alternate routes and other alternative projects that would avoid impacting the riparian zone.

[(f) The Department shall issue an individual permit for the expansion or improvement of a lawfully existing railroad or public roadway, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in Table C above, unless the applicant demonstrates that public safety cannot be adequately ensured without exceeding these limits. In such a case, the applicant shall provide 2:1 compensation for all cleared, cut and removed vegetation in excess of the limit set forth in Table C in a manner described at (t) below;
2. The width of the railroad or public roadway is minimized; and
3. If the project impacts a 150-foot or 300-foot riparian zone, the applicant demonstrates that there is a compelling public need to expand or improve the railroad or public roadway, which cannot be satisfied without impacting the riparian zone. This demonstration shall include an analysis of alternate routes and other alternative projects that would avoid impacting the riparian zone.]

[(g)] (h) The Department shall issue an individual permit for the construction of a new private roadway, **or the expansion, reconstruction or improvement of a lawfully existing private roadway**, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in [Table C] **Table 10.2** above[;], **unless the applicant demonstrates that safe, adequate access into the site, which meets all Federal, State and local requirements for roadways, cannot be provided without exceeding these limits.**
2. The width of the roadway is minimized;
3. Any crossing of a regulated water is designed and constructed as nearly perpendicular to the channel as possible;
4. **[The] For the construction of a new** roadway **that serves or** accesses a lot that **[did not receive] received** preliminary or final subdivision approval after October 2, 2006, **the applicant demonstrates that each lot being accessed by the roadway was not created or subdivided in such a way as to necessitate impacts to riparian zone vegetation upon development of that lot;**
5. **[If the] In cases where a roadway will impact a 150-foot or 300-foot riparian zone:**
 - i. **For the construction of a new** roadway **that** does not cross a regulated water, **[but impacts a 150-foot or 300-foot riparian zone]**, the applicant demonstrates that there

is no other means of constructing a roadway to access the developable area onsite, which would reduce or eliminate the impact to the riparian zone; **[and**

6.] ii. [If the] For the construction of a new roadway that crosses a regulated water [that has a 150-foot or 300-foot riparian zone], the applicant demonstrates that there is developable land onsite that cannot feasibly be accessed without crossing the water, including accessing the site through neighboring properties[.], and that not accessing the land would constitute a hardship on the applicant;

6. In cases where the limits of Table 10.2 are exceeded within a 50 or 150-foot riparian zone under (h)1 above, the applicant provides compensation for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below, unless all of the following apply:

- i. The applicant proposes the construction of a new driveway that serves only one private residence;**
- ii. The topography of the site and/or the requirements of a public entity prevent compliance with the limits of Table 10.2; and**
- iii. The applicant provides as much onsite compensation under (y) below as is feasible; and**

7. For any roadway impacting a 300-foot riparian zone, the applicant provides compensation for all cleared, cut and removed riparian zone vegetation using one or more methods described in (y) below, unless all of the conditions in (h)6i through iii apply.

[(h) The Department shall issue an individual permit for the expansion or improvement of an existing private roadway, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

- 1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in Table C above;**
- 2. The width of the roadway is minimized; and**
- 3. If the expansion or improvement impacts a 150-foot or 300-foot riparian zone, the applicant demonstrates the proposed reconstruction is necessary for the continued safe access to the site.]**

(i) The Department shall issue an individual permit to restore to a stable condition a bank or channel, which has become eroded, unstable and/or ecologically degraded, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

- 1. If the bank or channel is restored and revegetated as described at N.J.A.C. 7:13-11.14(c)2, and the applicant demonstrates the project is necessary pursuant to N.J.A.C. 7:13-11.14(b), the area of vegetation cleared, cut and/or removed within the riparian zone is minimized; **and****
- 2. If the bank or channel is restored by any means other than that which is described in (i)1 above, the total area of vegetation [permanently] cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in [Table C] Table 10.2 above, unless**

the applicant demonstrates that the bank or channel cannot be adequately stabilized or restored without exceeding these limits. In such a case, the applicant shall provide [2:1 compensation for all areas permanently cleared of vegetation in excess of the limit set forth in Table C in a manner described at (t) below; and] **as much onsite compensation as is feasible for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below.**

- [3. The total area of vegetation temporarily cleared, cut and/or removed within the riparian zone in order to provide access to perform the stabilization or restoration does not exceed the limits for temporary disturbance set forth in Table C above, and all such disturbed areas are replanted with indigenous, non-invasive vegetation.]

(j) The Department shall issue an individual permit to construct **or reconstruct** a stormwater discharge (including the stormwater pipe leading to the discharge **as well as any associated conduit outlet protection and/or conveyance swale**), which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in [Table C] **Table 10.2** above **unless the applicant demonstrates that exceeding these limits is necessary to construct a stable stormwater discharge and/or to meet the requirements of the Standards for Soil Erosion and Sediment Control in New Jersey at N.J.A.C. 2:90, as determined by the local soil conservation district or designee having jurisdiction over the site;** [and
2. No portion of the stormwater discharge, including any associated conduit outlet protection and/or conveyance swale, is placed within a 150-foot or 300-foot riparian zone, except in the following cases (note that new discharges along Category One waters and certain upstream tributaries are restricted in certain cases under the Stormwater Management rules at N.J.A.C. 7:8-5.5(h)):
 - i. The reconstruction of an existing stormwater discharge provided:
 - (1) The reconstruction is necessary to ameliorate erosion and/or flooding; and
 - (2) The volume, rate and quality of stormwater being discharged is not altered. Compliance with this requirement shall be determined in accordance with the standards of the Department's Stormwater Management rules at N.J.A.C. 7:8;
 - ii. The construction of a new stormwater discharge along an existing roadway provided:
 - (1) The discharge is necessary to ameliorate erosion and/or flooding; and
 - (2) There is no feasible alternative means of constructing the discharge outside the riparian zone due to topography, soil type, vegetative cover and/or location of the roadway or other existing structures;
 - iii. The construction of a new stormwater discharge associated with the construction of a new roadway provided:
 - (1) There is no feasible alternative location or alignment for either the new roadway or the new discharge, which would eliminate the need to construct a discharge in the riparian zone;

- (2) In the case of a public roadway, the applicant demonstrates that there is a compelling public need to construct the new roadway and the new discharge, which cannot be satisfied without impacting the riparian zone. This demonstration shall include an analysis of alternate routes for the new roadway and other alternative projects that would avoid impacting the riparian zone; and
 - (3) In the case of a private roadway, the applicant demonstrates that there is developable land onsite that cannot feasibly be accessed without constructing a new roadway and/or discharge that impacts the riparian zone, including accessing the site through neighboring properties; and
 - iv. The construction or reconstruction of any stormwater discharge not described in (j)2i, ii or iii above, which is located in a Special Water Resource Protection Area pursuant to N.J.A.C. 7:8-5.5(h), provided the requirements at N.J.A.C. 7:8-5.5(h)3 are met.]
2. In cases where the limits of Table 10.2 are exceeded within a 50 or 150-foot riparian zone under (j)1 above, the applicant provides compensation for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below;
 3. If any portion of a stormwater discharge is constructed within a 150-foot riparian zone, the applicant demonstrates that there is no feasible alternative means of situating the stormwater discharge outside the riparian zone due to topography, soil type, vegetative cover and/or location of existing structures; and
 4. If any portion of a stormwater discharge is constructed within a 300-foot riparian zone, the applicant demonstrates the following:
 - i. There is no feasible alternative means of situating the stormwater discharge outside the riparian zone due to topography, soil type, vegetative cover and/or location of existing structures;
 - ii. Compensation is provided for all cleared, cut and removed riparian zone vegetation using one or more methods described in (y) below; and
 - iii. In cases where a stormwater discharge is associated with a major development, as defined at N.J.A.C. 7:8-1.2, the discharge of runoff from the water quality design storm, as defined at N.J.A.C. 7:8-5.5(a), within the riparian zone is prohibited except as provided in (j)4iii(2) below.
 - (1) Examples of methods that can be used to avoid discharge of runoff from the water quality design storm within a 300-foot riparian zone include infiltrating runoff from this storm outside the riparian zone, or discharging runoff from this storm outside the riparian zone and allowing it to flow overland into the regulated water, while constructing a stormwater pipe to stably discharge runoff from larger storms within the riparian zone.
 - (2) In cases where discharge of runoff from the water quality design storm outside the riparian zone is unavoidable, the post-construction load of total suspended solids in stormwater runoff generated from this storm

shall be reduced by 95 percent of the anticipated load from the developed site, expressed as an annual average, in accordance with N.J.A.C. 7:8-5.5.

(k) The Department shall issue an individual permit to construct a **new aboveground or underground** utility line, which **[crosses a regulated water and]** results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in **[Table C] Table 10.2** above, unless the applicant demonstrates that **[:]there is a compelling public need to construct the utility line, which cannot be accomplished without exceeding these limits. In such a case, the applicant shall provide compensation for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below;**
 - i. The construction of an open trench through the riparian zone is necessary to install the utility line; and
 - ii. The width of the trench required to safely install the utility line necessitates that disturbance to vegetation in the riparian zone exceeds the limits set forth in Table C, as described at N.J.A.C. 7:13-11.9(b)4; and
2. The applicant demonstrates, pursuant to N.J.A.C. 7:13-11.9(b)1 through 4, that disturbance in the riparian zone is unavoidable**[.]**;
3. **Disturbance to riparian zone vegetation is the minimum necessary to meet the applicable requirements of the New Jersey Bureau of Public Utilities and all other State and Federal requirements governing the construction of the utility line; and**
4. **Trees within 25 feet of any top of bank or edge of water are preserved wherever possible.**

(l) The Department shall issue an individual permit to construct a utility line, which does not cross a regulated water but which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in Table C above;
2. The applicant demonstrates that it is not feasible to construct the line either outside the riparian zone completely, or otherwise in such a way that no vegetation in the riparian zone is disturbed; and
3. The line is placed at least 25 feet from any top of bank or edge of water.]

(m) The Department shall issue an individual permit to reconstruct, replace or maintain an existing utility line, or to perform routine maintenance within an existing utility line's easement or right-of-way, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in Table 10.2 above, unless the applicant demonstrates that there is a compelling public need to maintain the line, which cannot be accomplished without exceeding these limits. In such a case, the applicant shall provide compensation for all cleared, cut and removed vegetation

in excess of these limits using one or more methods described in (y) below;

2. **Disturbance to riparian zone vegetation is the minimum necessary to meet the applicable requirements of the New Jersey Bureau of Public Utilities and all other State and Federal requirements governing the construction of the utility line; and**
3. **Trees within 25 feet of any top of bank or edge of water are preserved wherever possible.**

(m) The Department shall issue an individual permit for the construction of a new private residence, **or the reconstruction of a lawfully existing private residence**, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in **[Table C] Table 10.2** above **unless the applicant demonstrates that it is not feasible to construct or reconstruct a private residence without exceeding these limits. In such a case, the applicant shall provide compensation for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below.**
 - i. **For the purposes of determining compliance with Table 10.2 for the reconstruction of a private residence, the reconstructed building is limited to 2,000 square feet of riparian zone disturbance outside the building's existing footprint, or the area listed in Table 10.2 for a new private residence, whichever is greater.**
 - ii. **For example, Table 10.2 allows a maximum disturbance of 7,000 square feet of riparian zone vegetation for the construction of a new private residence in a 150-foot riparian zone. If the footprint of an existing private residence is 3,000 square feet, the final footprint of the private residence after reconstruction cannot result in more than 4,000 square feet of additional disturbance to riparian zone vegetation. However, if the footprint of an existing private residence is 10,000 square feet, the final footprint of the private residence after reconstruction cannot result in more than 12,000 square feet of additional disturbance to riparian zone vegetation.**
2. **[The] If a new private residence is being constructed on a lot that [did not receive] received preliminary or final subdivision approval after October 2, 2006, the applicant demonstrates that the lot was not created or subdivided in such a way as to necessitate impacts to riparian zone vegetation upon development of that lot; and**
3. **The] Any new private residence is [not being constructed as part of a larger] constructed alone and apart from any residential subdivision or multi-unit development[; and**
4. **The applicant demonstrates the following:**
 - i. **There is no other reasonable use for the site under the applicable zoning for the property, which would reduce or eliminate the impact to the riparian zone;**
 - ii. **There is no other feasible location onsite to construct a private residence, which would reduce or eliminate the impact to the riparian zone; and**

- iii. All disturbance within the riparian zone is located at least 25 feet from any top of bank or edge of water and as far from the regulated water as possible, unless the private residence is constructed adjacent to a manmade tidal water in cases where such waters possess a riparian zone].

(n) The Department shall issue an individual permit for the construction of an addition to an existing [building]private residence, or the construction of a [building]structure appurtenant to an existing [building]private residence, such as a garage, barn, deck, fence, pool or shed, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the [following requirements are satisfied:

1. The] total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in [Table C] Table 10.2 above, unless the applicant demonstrates that there is a compelling need for the addition or appurtenant structure, and that it is not feasible to construct it without exceeding these limits. In such a case, the applicant shall provide compensation for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below[; and
2. The applicant demonstrates the following:
 - i. There is no other feasible location onsite to construct the addition or building, which would reduce or eliminate the impact to the riparian zone; and
 - ii. All disturbance within the riparian zone is located at least 25 feet from any top of bank or edge of water and as far from the regulated water as possible, unless the addition or building is constructed adjacent to a manmade tidal water in cases where such waters possess a riparian zone]. Note that the areas of disturbance listed in Table 10.2 above for activities under (n) are cumulative and include all additions and appurtenant structure constructed onsite since November 5, 2007. For example, all existing and proposed additions to a private residence under one or more permits shall cumulatively not exceed 2,000 square feet of riparian zone disturbance and all existing and proposed appurtenant structures under one or more permits shall cumulatively not exceed 4,000 square feet of riparian zone disturbance.

(o) [The Department shall issue an individual permit for the construction of a flood control project, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in Table C above, unless the applicant demonstrates that public safety cannot be adequately ensured without exceeding these limits. In such a case, the applicant shall provide 2:1 compensation for all cleared, cut and removed vegetation in excess of the limit set forth in Table C in a manner described at (t) below.] The Department shall issue an individual permit to construct a subsurface sewage disposal system that serves a new private residence, or to reconstruct or repair a failing subsurface sewage disposal system that serves an existing private residence, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. For the construction of a subsurface sewage disposal system that serves a new private residence, the total area of vegetation cleared, cut and/or removed within

the riparian zone does not exceed the limits set forth in Table 10.2 above, unless the applicant demonstrates that exceeding these limits is necessary to satisfy all State and local requirements governing the construction of subsurface sewage disposal systems. In such a case, the applicant shall provide compensation for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below;

- 2. For the reconstruction or repair of a failing subsurface sewage disposal system that serves an existing private residence, the total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in Table 10.2 above, unless the applicant demonstrates that exceeding these limits is necessary to satisfy all State and local requirements governing the reconstruction and repair of subsurface sewage disposal systems. In such a case, the applicant shall provide compensation for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below, unless all of the following apply:
 - i. The topography of the site and/or the requirements of a public entity prevent compliance with the limits of Table 10.2; and**
 - ii. The applicant provides as much onsite compensation under (y) below as is feasible;****
- 3. If the system serves a new private residence that is being constructed on a lot that received preliminary or final subdivision approval after October 2, 2006, the applicant demonstrates that the lot was not created or subdivided in such a way as to necessitate impacts to riparian zone vegetation upon development of that lot;**
- 4. Where possible, the system is located outside any flood hazard area.**

(p) The Department shall issue an individual permit for the construction of a public accessway or public access area along a tidal water, which results in clearing, cutting, and/or removing vegetation in a riparian zone, only if the following requirements are met:

1. The public accessway or public access area is designed in accordance with the public access to the waterfront rule, N.J.A.C. 7:7E-8.11[, in which case such construction need not comply with (d)1 and 2 above]; and
2. [No building is constructed within 25 feet of any top of bank or edge of water]; and
- 3.] For any proposed parking area, the applicant demonstrates that there is no other feasible location onsite to construct the parking area, which would reduce or eliminate the impact to the riparian zone;

(q) The Department shall issue an individual permit for the construction of a water dependent development along a tidal water, which results in clearing, cutting, and/or removing vegetation in a riparian zone, only if the following requirements are met:

1. The development is designed in accordance with the Coastal Zone Management rules, N.J.A.C. 7:7E, and meets the definition of water dependent at N.J.A.C. 7:7E-1.8; and
2. [No building is constructed within 25 feet of any top of bank or edge of water; and
- 3.] For any proposed development, the applicant demonstrates that there is no other

feasible location onsite to construct the development, which would reduce or eliminate the impact to the riparian zone.

[(r) The Department shall issue an individual permit for a regulated activity not listed in (e) through (q) above, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in Table C above;
2. No building is constructed within 25 feet of any top of bank or edge of water;
3. The applicant demonstrates the following:
 - i. There is no other reasonable means of accomplishing the project, which would reduce or eliminate the impact to the riparian zone;
 - ii. There is no other feasible location onsite to undertake the project, which would reduce or eliminate the impact to the riparian zone; and
 - iii. All disturbance within the riparian zone is located as far from the regulated water as possible; and
4. The applicant provides 2:1 compensation for all cleared, cut and removed vegetation in the riparian zone in a manner described at (t) below.

(s) If the Department determines that requiring an applicant to meet a limit of disturbance set forth in Table C above constitutes a hardship under N.J.A.C. 7:13-9.8, and the Department subsequently grants an individual permit for an activity that exceeds that limit, the applicant shall provide 2:1 compensation for all cleared, cut and removed vegetation in excess of that limit set forth in Table C in a manner described at (t) below.

(t) The 2:1 compensation required under (f)1, (i)2, (o), (r)4 and (s) above shall be accomplished as follows:

1. In the case of (f)1, (i)2, (o) and (s) above, at least twice the area of all cleared, cut and removed vegetation in excess of the limit in Table C above shall be replanted;
2. In the case of (r)4 above, at least twice the area of all cleared, cut and removed vegetation shall be replanted;
3. The area selected for 2:1 compensation is deed restricted against future development that would remove the vegetation being planted; and
4. All replanting of vegetation shall be accomplished as described in (u) below and in one or both of the following ways. (Replanting vegetation that was removed in violation of this chapter does not constitute compensation under this section):
 - i. The applicant shall remove lawfully existing structures and/or impervious surfaces in the riparian zone, and replant the area with vegetation; and/or
 - ii. The applicant shall plant new trees in the riparian zone in an area that is substantially devoid of trees at the time of application because the trees were removed due to previous, lawful development.

(u) All replanting of riparian zone vegetation required under this section shall meet the

following requirements:

1. All replanting shall be located in the riparian zone of the same regulated water as the cleared, cut or removed vegetation;
2. All replanting shall be located as close in proximity to the cleared, cut or removed vegetation as possible;
3. All replanting shall consist of indigenous, non-invasive vegetation;
4. The replanted vegetation shall be of equal or greater density as the cleared, cut or removed vegetation;
5. The applicant shall monitor and maintain the replanted vegetation for at least three growing seasons to ensure proper establishment and survival; and
6. The location, nature, area and schedule for replanted vegetation shall be shown on drawings submitted with the application for the individual permit which necessitates the replanting. No replanting required under this section shall commence without the prior approval of the Department.

(v) In cases where an applicant proposes to redevelop a site within 25 feet of any top of bank or edge of water, all existing impervious surface within 25 feet of the top of bank or edge of water shall be removed and the riparian zone in this area shall be adequately stabilized and replanted with indigenous, non-invasive vegetation, except in the following cases:

1. The applicant demonstrates that removing the existing impervious surface and/or preventing the replacement of the existing impervious surface within 25 feet of the top of bank or edge of water would likely threaten public safety, exacerbate flooding or erosion and/or cause an undue economic hardship upon the applicant. In such a case, the riparian zone within 25 feet of the top of bank or edge of water shall be restored, stabilized and/or replanted to the extent feasible; and/or
2. The applicant proposes to construct a public walkway within 25 feet of the top of bank or edge of water, provided the walkway is constructed of permeable material where feasible, and provided the remainder of the area within 25 feet of the top of bank or edge of water is restored, stabilized and replanted with indigenous, non-invasive vegetation.]

(r) The Department shall issue an individual permit for the investigation, cleanup or removal of hazardous substances as defined in the Department's rules governing hazardous substances at N.J.A.C. 7:1E, Appendix A, and/or pollutants, as defined in the New Jersey Water Pollution Control Act rules at N.J.A.C. 7:14A, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

- 1. The Department determines that disturbance to riparian zone vegetation is necessary to properly undertake site remediation activities pursuant to the Technical Requirements for Site Remediation at N.J.A.C. 7:26E and the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS) rules at N.J.A.C. 7:26C;**
- 2. The applicant demonstrates that the proposed area of disturbance to riparian zone**

vegetation is the minimum necessary for compliance with the Technical Requirements for Site Remediation at N.J.A.C. 7:26E and the ARRCS rules at N.J.A.C. 7:26C. This demonstration shall include an exploration of alternative remediation methods acceptable under N.J.A.C. 7:26E and 7:26C, and shall identify any such methods that would result in less impact to riparian zone vegetation, but which have been rejected as not possible or feasible; and

3. Riparian zone compensation is undertaken in accordance with the requirements (y) below for any riparian zone vegetation that will undergo a change in character as a result of the investigation, cleanup or removal activities, except that the creation or enhancement ratio under N.J.A.C. 7:13-14.13 and 14.14, respectively, shall not exceed 1:1 if trees are planted to provide riparian zone mitigation.

(s) The Department shall issue an individual permit for activities undertaken by the Department's Division of Solid and Hazardous Waste or authorized through a solid waste facility closure and post-closure plan or disruption approval issued by the Department under N.J.A.C. 7:26-2A.9, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The Department determines that disturbance to riparian zone vegetation is necessary to properly close a solid waste facility as set forth in (s) above and to properly maintain and monitor the site after closure;
2. The applicant demonstrates that the proposed area of disturbance to riparian zone vegetation is the minimum necessary in order to adequately close and/or maintain the landfill. This demonstration shall include an exploration of alternative methods acceptable under N.J.A.C. 7:26, and shall identify any such methods that would result in less impact to riparian zone vegetation, but which have been rejected as not possible or feasible; and
3. Riparian zone compensation is undertaken in accordance with the requirements in (y) below for any riparian zone vegetation that will undergo a change in character as a result of the activities authorized under this individual permit.

(t) The Department shall issue an individual permit to construct a trail and/or boardwalk for use by pedestrians, bicycles and other non-motorized methods of transport, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in Table 10.2 above, unless the applicant provides compensation for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below. The length of trail or boardwalk constructed outside a riparian zone is not considered when determining the allowable area of riparian zone disturbance under Table 10.2; and
2. Temporary impacts to vegetation within the riparian zone for construction and grading is limited to 3 feet on each side of a trail or boardwalk, and are adequately stabilized and replanted with vegetation in accordance with (z) below.

(u) The Department shall issue an individual permit to construct a footbridge, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the

following requirements are satisfied:

1. The total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in Table 10.2 above, unless the applicant provides compensation for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below; and
2. The width of disturbance to riparian zone vegetation to construct the footbridge does not exceed 20 feet.

(v) The Department shall issue an individual permit for the construction of a flood control project, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the total area of vegetation cleared, cut and/or removed within the riparian zone does not exceed the limits set forth in Table 10.2 above, unless the applicant demonstrates that public safety cannot be adequately ensured without exceeding these limits. In such a case, the applicant shall provide as much compensation as is feasible for all cleared, cut and removed vegetation in excess of these limits using one or more methods described in (y) below, except that the creation or enhancement ratio under N.J.A.C. 7:13-14.13 and 14.14, respectively, shall not exceed 1:1 if trees are planted to provide riparian zone mitigation.

(w) The Department shall issue an individual permit for redevelopment, as defined at N.J.A.C. 7:13-1.2, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The applicant demonstrates that the area proposed for redevelopment is significantly disturbed and not functioning as a riparian zone at the time of application due to previous lawful development, such as abandoned pavement that has partially revegetated, areas of dirt and gravel that are primarily devoid of vegetation, and landscape islands within a parking area;
2. The significantly disturbed area in (w)1 above was lawfully existing in the riparian zone prior to November 5, 2007, or has been permitted under this chapter;
3. No additional disturbance is proposed that would expand the disturbed area into a functioning riparian zone unless otherwise approved under this chapter; and
4. Where feasible, any disturbed portion of the riparian zone remaining after redevelopment is adequately stabilized and replanted with vegetation in accordance with (z) below.

(x) The Department shall issue an individual permit for a regulated activity not listed in (g) through (w) above, which results in clearing, cutting and/or removing vegetation in a riparian zone, only if the following requirements are satisfied:

1. The applicant provides compensation for all cleared, cut and removed vegetation using one or more methods described in (y) below; and
2. The applicant demonstrates that there is no other reasonable use of the site, which would reduce disturbance to riparian zone vegetation, such as constructing a different type of development onsite, reducing the size or scope of the project, or relocating the project to a different portion of the site.

(y) All riparian zone compensation required under this section shall be accomplished in

one or more of the following ways:

- 1. Permanently preserving land immediately adjacent to the existing riparian zone, in accordance with an averaging plan pursuant to N.J.A.C. 7:13-13;**
- 2. Removing impervious cover within or immediately adjacent to a riparian zone, and planting the area with native, non-invasive vegetation, in accordance with a creation plan pursuant to N.J.A.C. 7:13-14.12;**
- 3. Planting native, non-invasive vegetation within or immediately adjacent to a riparian zone, within an area that is substantially devoid of vegetation or is currently dominated by invasive species, in accordance with an enhancement plan pursuant to N.J.A.C. 7:13-14.13;**
- 4. Permanently preserving forested land within a riparian zone onsite, in accordance with a preservation plan pursuant to N.J.A.C. 7:13-14.14.**

(z) Upon completion of regulated activities, all vegetated areas temporarily disturbed within a riparian zone shall be replanted with vegetation of the same or better ecological characteristics as the vegetation that was disturbed, in accordance with the hierarchy described in (z)3 below.

- 1. For example, herbaceous or woody vegetation can be replaced in-kind or with trees, but forested areas shall be replaced with trees of equal type and density as the existing forest.**
- 2. Plantings shall furthermore consist of indigenous, non-invasive species, except where the disturbed vegetated area is an existing landscaped or actively farmed area, in which case plantings may be in-kind.**
- 3. Plantings shall be undertaken in accordance with the following hierarchy, which is listed from greatest to lowest ecological value:**
 - i. Forested, as defined at N.J.A.C. 7:13-1.2;**
 - ii. Trees, as defined at N.J.A.C. 7:13-1.2;**
 - iii. Other woody vegetation, such as scrub/shrub;**
 - iv. Herbaceous vegetation, such as pasture or meadow; and**
 - v. Actively disturbed areas, as defined at N.J.A.C. 7:13-1.2, such as maintained lawn.**