

NJDEP'S
WETLANDS
MITIGATION RULE
PROPOSAL

FIVE TOPICS FOR AMENDMENT

1. Mitigation for
intertidal subtidal
shallows (CZM)

2. Mitigation for a
large disturbance
(FWW)

3. Contributions to
the Mitigation
Council (FWW)

4. Preserving
wetlands (FWW
and CZM)

5. Mitigation for
riparian zones
adjacent to C-1
waters (FHA)

INTERTIDAL/SUBTIDAL SHALLOWS (ISS) MITIGATION

- Rules to be amended: Coastal Zone Management.
- Current rules: Require a monetary contribution to the Mitigation Council as mitigation for impacts to ISS.
- Proposed Change: Allow applicants to use a mitigation bank (if one exists) for mitigation.



MITIGATION HIERARCHY FOR A LARGER DISTURBANCE

- Rules to be amended: Freshwater Wetlands
- Current rules: The mitigation hierarchy for a “larger” disturbances (over 1.5 acres) provides that the first mitigation option is onsite or offsite mitigation.
- Proposed Change: Reorder so that use of a mitigation bank is first in the hierarchy for a larger disturbance.

CONTRIBUTIONS TO THE MITIGATION COUNCIL

Rules to be amended: Freshwater Wetlands

Current rules: For general permits, the rules provide a “single family contribution” for those approved to make a monetary contribution to the Mitigation Council.

Proposed Change: Eliminate the single-family contribution option.

MITIGATION OPTIONS FOR C-1 WATERS

- Rules to be amended: Flood Hazard Area Control Act
- Current rules: Mitigation for impacts classified as major development along a C-1 waterway must occur along the same regulated water as the disturbance or an upstream tributary to that regulated water.
- Proposed Change: If mitigation along the same water or upstream is not feasible, allow the use of the full range of mitigation options including a mitigation bank.

ADD THE OPTION TO PRESERVE WETLANDS



Rules to be amended: Coastal Zone Management and Freshwater Wetlands



Current rules: The rules allow the preservation of uplands as one of the last mitigation options.



Proposed Change: Add to the option for preserving uplands, the option to preserve wetlands valuable for preservation.

DETERMINING IF WETLANDS ARE VALUABLE FOR PRESERVATION

In addition to being free from contaminants, the parcel shall meet at least one, and preferably several, of the following criteria:

1. Is at least five acres in size;

2. Is immediately adjacent to public lands such as a Federal Wildlife refuge, a State wildlife management area, a State park or forest, or a State, county, or local preservation area, or preservation areas held by a charitable conservancy;

3. Contains exceptional resource value wetlands;

FACTORS TO CONSIDER FOR WETLAND PRESERVATION

4. Contains critical habitat for flora or fauna;

5. Contains wetlands or waters draining to FW1 or category one waters, as defined at N.J.A.C. 7:9B, or into public drinking water sources;

6. Is forested or has unique aspects or characteristics that contribute to its ecological value, such as an unusual or regionally rare type of wetland;

7. Is within or a part of the riparian zone;

FACTORS TO CONSIDER FOR WETLAND PRESERVATION

8. Provides an important or unique resource for a community, such as being the last remaining piece of undeveloped wetland in a developed neighborhood;

9. Provides an ecological inland retreat for endangered or threatened plants or animals; or

10. Provides attenuation of flood waters.

POTENTIAL IMPACTS

- February 1993 Memorandum of Agreement
 - Commission Issues Freshwater Wetlands General Permits for Development Activities that Require Submission of a Development Application to the Commission.
 - Mitigation has been required for certain Freshwater Wetlands General Permits since 2008. (2, 4, 5, 6, 10a, 10b, 11, 16, 21 & 26)
 - For GPs that exceed threshold, Commission includes mitigation as condition and DEP addresses mitigation requirement with the applicant
- Preservation of Wetlands in the Pinelands Area



THANK YOU!