

Coastal Permit Program Rule Text Subject to Routine Program Change

Changes to existing rule text approved by OCRM are shown as follows:

Additions indicated in **underlined boldface**; and

Deletions shown in [~~bracketed strikethrough~~].

SUBCHAPTER 1. GENERAL PROVISIONS

7:7-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Floodway” has the same meaning as the definition of that term in the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-1.2.

“Impervious cover” means any structure, surface, or improvement that reduces and/or prevents absorption of stormwater into land. Porous paving, paver blocks, gravel, crushed stone, crushed shell, elevated structures (including boardwalks), and other similar structures, surfaces, or improvements are considered impervious cover. Grass, lawns, or any other vegetation are not considered impervious cover.

“Rotor swept area” means the area of the circle delineated by the tips of the blades of the wind turbine for a horizontal axis wind turbine, and the area determined by multiplying the rotor radius times the rotor height times 3.14 for a vertical axis wind turbine.

SUBCHAPTER 2. ACTIVITIES FOR WHICH A PERMIT IS REQUIRED

7:7-2.1 CAFRA

(a) (No change.)

(b) The Department interprets its obligation and responsibility to regulate development as defined by CAFRA to include review of the potential impacts of any development, if at least part of that development is located within the area in which a CAFRA permit is required. Therefore, if any development requires a CAFRA permit, the Department will review all of the components of the development, not just those that triggered the regulatory thresholds of CAFRA. In addition, the Department will review all the components of a development that spans the zones in (a) above if the total development exceeds a regulatory threshold. The Department interprets the statutory intent as excluding developments with relatively minor impacts. In addition, the repair and maintenance of utilities within rights-of-way on beaches and dunes are not regulated development as defined at N.J.A.C. 7:7-1.3 provided that all disturbed areas are restored to their pre-disturbance condition. To that end, the following statutory terms are interpreted to mean the following, for the purposes of this section.

1. The method for determining whether an existing development is an intervening

development is as follows:

i. For proposed developments other than single family home or duplex and/or accessory development as described in (b)1ii below, extend a line landward and perpendicular to the mean high water line from each of the widest shore-parallel points of the footprint of the existing development (see Appendix B, incorporated herein by reference). If the proposed development does not fall entirely within these lines, then the existing development is not considered intervening development.

ii. For a proposed single family home or duplex and/or accessory development (such as garages, sheds, pools, driveways, excluding shore protection structures) that is not part of a larger development, extend a line landward and perpendicular to the mean high water line from each of the widest shore-parallel points of the footprint of the existing development (see Appendix C, incorporated herein by reference). If the proposed single family home or duplex and/or accessory development extends beyond these lines more than 15 feet on either side or a cumulative total of 20 feet, then the existing development is not considered intervening development.

iii. Existing developments that may be considered intervening development include above-ground structures such as houses, garages, cabanas or bath houses which are fully enclosed and serviced by a municipal sewer system, and commercial, industrial or public buildings provided the above-ground structure received all necessary Federal, State and local approvals and was:

- (1) Completed or under active construction as of July 19, 1994;
- (2) Exempt from CAFRA; or
- (3) Constructed under a CAFRA permit.

iv. Existing developments that are not considered intervening development include shore protection structures, seawalls, bulkheads, retaining walls, gabions, revetments, fences, boardwalks, promenades, patios, decks, carports, prefabricated sheds without foundations, docks, piers, lifeguard stands, gazebos, swimming pools, utility lines, culverts, railroads, roadways, sewage pump stations, or seasonal or temporary structures associated with the tourism industry as defined at N.J.A.C. 7:7-1.3 or constructed under the coastal general permit for the construction of certain types of temporary and seasonal developments at hotels and motels, commercial developments and multi-family residential developments of 75 units, N.J.A.C. 7:7-7.26.

2. If located in an area other than a beach or a dune, public development is not the following:

i. The maintenance, repair or replacement (including upgrade) of existing petroleum, sewage or natural gas pipelines, and associated pump stations and connection junctions, and electrical substations, located completely within paved roadways or paved, gravel, or cleared and maintained rights-of-way, provided that the replacement of sewage pipelines and associated pump stations does not result in an increase in the associated sewer service area;

ii. The maintenance, repair, modification, or replacement of sanitary system components other than pipelines and associated pump stations, including upgrading of systems from primary to secondary treatment, provided that an increase in capacity will not result;

iii. The construction, maintenance, repair or replacement (including upgrade) of water lines, telecommunication and cable television lines, including fiber optic cables,

poles and transfer and/or switching stations associated with telecommunication lines, provided the transfer and/or switching station is located completely within paved roadways or paved, gravel, or cleared and maintained rights-of-way. This does not include the construction of telecommunication towers such as cellular telephone towers;

iv. The maintenance, repair or replacement of existing and functional railroads and related structures located completely within cleared and maintained rights-of-way;

v. The maintenance and repair of existing stormwater management facilities which receive, store, convey or discharge stormwater runoff;

vi. The construction of less than 1,200 linear feet of new stormwater pipes;

vii. The construction or expansion of educational facilities as defined at N.J.A.C. 7:7-1.3;

viii. The construction of seasonal or temporary structures related to the tourism industry as defined at N.J.A.C. 7:7-1.3; or

ix. The construction, maintenance, repair or replacement of power lines.

3. In addition to the activities identified at (b)2 above, if located more than 150 feet from the mean high water line of any tidal waters, or the landward limit of a beach or a dune, whichever is most landward, public development is not the following:

i. The construction of a new road, sanitary sewer pipeline, petroleum pipeline or natural gas pipeline of less than 1,200 feet in length or the extension of a road, sanitary sewer pipeline, stormwater management facility, petroleum pipeline or natural gas pipeline of less than 1,200 feet in length, not to exceed a cumulative total of 1,200 feet in any one municipality at any one site, unless the construction is located within a development requiring a CAFRA permit in which case it shall be considered part of the development for which a permit is required; or

ii. The construction of telecommunication towers such as cellular telephone towers.

4. Equivalent parking areas will be calculated at 270 square feet per parking space, including one half of the associated aisle area, excluding access drives. This calculation shall apply to both paved and unpaved parking areas.

5. A development that is used solely for the storage of food or other merchandise, excluding storage of agri-chemical and petroleum products, and that is not associated with any on-site manufacturing or industrial process and is not specifically included in the definition of industrial development at N.J.A.C. 7:7-1.3 is considered a "commercial development."

6. Municipal or other government administrative, public works or emergency services buildings that are not specifically included in the definition of public development at N.J.A.C. 7:7-1.3 or parks which are publicly owned or controlled are considered commercial developments.

7. Churches, synagogues or other houses of worship are considered commercial developments.

8. Development or expansion of existing developments "either solely or in conjunction with a previous development" is described at (b)8i through iv below. "Previous development" includes developments that either were previously constructed after September 19, 1973 or developments that previously received a CAFRA permit which remains valid but the approved development has not yet been built. For the purposes of (b)8i, ii and iii below, contiguous parcels shall include, but not be limited to, those land areas which directly abut or are separated by a general access roadway or other

right-of-way, including waterways, or those land areas which are part of a subdivision existing and under common ownership on or after September 19, 1973.

i. The construction of any residential or commercial development on contiguous parcels of property, regardless of present ownership, where there is a proposed sharing of infrastructure constructed to serve those parcels including, but not limited to, roads, utility lines, drainage systems, open spaces or septic drain fields;

ii. The construction of any residential or commercial development on contiguous parcels of property which were under common ownership on or after September 19, 1973 (the effective date of CAFRA), regardless of present ownership, or any subdivision or resubdivision of a parcel of land which occurred after September 19, 1973;

iii. The construction of any residential or commercial development on contiguous parcels of property, where there is some shared pecuniary, possessory, or other substantial common interest by one or more individuals in the units;

iv. The addition of one or more parking spaces or dwelling units or equivalent to any existing dwelling units or parking spaces or equivalent parking area for which construction had commenced subsequent to September 19, 1973 where such addition, when combined with the existing dwelling units or parking area, results in a total exceeding the regulatory threshold. Any dwelling units or parking areas in existence on or before September 19, 1973 which have been determined by the Department to be exempt from the requirements of this subchapter due to on-site construction on or before September 19, 1973 will not be counted when determining if a new or expanded development exceeds the regulatory threshold.

(1) The addition of parking spaces by restriping is not regulated.

v. The total number of dwelling units or parking spaces in a new or expanded development need not be restricted to any single municipal tax block nor to any one period in time in order to require a permit;

vi. The construction of a development below the regulatory threshold as defined in this section, where such construction is part of a larger planned development in which the total development will exceed the regulatory threshold.

9. Commercial development not located on a beach or a dune and not located within 150 feet of the beach, dune or mean high water line unless there is an intervening development as described at (b)1 above, excludes development which:

i. Does not cause the number of parking spaces (either solely or in conjunction with the existing development) to exceed the regulatory threshold of the appropriate zone; or

ii. Does not propose development of any new parking spaces, regardless of whether the total number of existing parking spaces exceeds the regulatory threshold of the appropriate zone.

10. The elevating of an existing residential, commercial, industrial, or public building on pilings does not require a CAFRA permit, unless the elevating of the existing building is associated with an enlargement and such enlargement is not exempt under CAFRA pursuant to (c)4 below or unless the elevating of the existing building involves excavation, filling, or grading on a beach or a dune. Additional parking spaces located under a building elevated in accordance with this paragraph are not counted toward the parking space or equivalent parking area limits at (a) above.

11. Residential developments which include the offsite construction of more than 1,200 linear feet of new sewer pipelines or roads require a CAFRA permit regardless of

the number of dwelling units. For all other residential developments which are not located on a beach or dune, whether a CAFRA permit is required is based on the number of dwelling units proposed only and not the length of roadways or sewer pipelines on-site.

12. The classification or removal from classification of the municipality in which a development is located as a "qualifying municipality," as defined at N.J.A.C. 7:7-1.3, affects the requirement for a CAFRA permit for such development as follows:

i. If construction of the development under a valid CAFRA permit has been started and the municipality in which the development is located either becomes classified or is removed from classification as a "qualifying municipality," the permittee is obligated to comply with all conditions of the permit;

ii. If construction of the development under a valid CAFRA permit has not been started at a time when the municipality in which the development is located is classified as a "qualifying municipality" such that the development does not require a CAFRA permit under (a)3 or 4 above, the permittee need not comply with the conditions of the issued permit;

iii. If construction of the development is started in accordance with all necessary approvals at a time when the municipality in which the development is located is classified as a "qualifying municipality" such that the development does not require a CAFRA permit under (a)3 or 4 above, and if subsequently the municipality is removed from classification as a "qualifying municipality," the Department shall not require a CAFRA permit for the development provided construction continues to completion with no lapses in construction that cumulatively total one year or more;

iv. If site plan approval is obtained for the development pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) at a time when the municipality in which the development is located is classified as a "qualifying municipality" such that the development does not require a CAFRA permit under (a)3 or 4 above, and if subsequently the municipality is removed from classification as a "qualifying municipality," the Department shall not, for a period of one year from the date that the municipality is removed from classification as a "qualifying municipality," require a CAFRA permit for the development, provided construction is started within this one-year period and continues through completion with no lapses in construction that cumulatively total one year or more;

v. If preliminary subdivision approval is obtained for a residential development pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and no subsequent site plan approval is required, at a time when the municipality in which the development is located is classified as a "qualifying municipality" such that the development does not require a CAFRA permit under (a)3 or 4 above, and if subsequently the municipality is removed from classification as a "qualifying municipality," the Department shall not, for a period of one year from the date that the municipality is removed from classification as a "qualifying municipality," require a CAFRA permit for the development, provided construction is started within this one-year period and continues through completion with no lapses in construction that cumulatively total one year or more;

vi. For the purposes of (b)12iii through v above, construction means having completed one of the following, as approved as part of the municipal site plan or subdivision approval:

- (1) The foundation for one of the buildings or structures;
- (2) The subsurface improvements for the roadways; or
- (3) The bedding for utilities.

vii. Development under (b)12iii through v above is limited to the specific project depicted on the approved site plan or for residential developments only, the specific project that was the subject of the subdivision approval, namely development of the subdivision which is consistent with the lot coverage, use and density restrictions of the zoning ordinances that were in effect at the time of the subdivision approval or that were authorized by the subdivision approval.

13. Development is not the following:

i. The installation of a wind turbine(s) provided the wind turbine(s) is:

(1) On or structurally attached to a legally existing building;
(2) Less than 200 feet in height, measured from the ground surface to the tip of the blade at its highest position;

(3) No greater than 2,000 square feet in cumulative rotor swept area; and

(4) Any portion of the tower of the wind turbine more than 100 feet above the ground surface is a freestanding monopole;

ii. The installation of a solar panel(s) provided the solar panel(s) is:

(1) On or structurally attached to a legally existing building;

(2) On or structurally attached to a utility pole (electric, telephone, cable and lighting) within a maintained utility right-of-way or on or structurally attached to a parking lot light pole;

(3) On legally existing impervious cover unless the solar panel would be located in a floodway; or

(4) On a sanitary landfill provided the solar panel is included in the Closure and Post-Closure Care or modified plan as approved by the Department in accordance with N.J.A.C. 7:26.

(c) – (f) (No change.)

N.J.A.C. 7:7-2.3 Waterfront development

(a) – (c) (No change.)

(d) A permit shall be required for the construction, reconstruction, alteration, expansion or enlargement of any structure, or for the excavation or filling of any area, any portion of which is in the waterfront area as defined in (a) above, with the exceptions listed below:

1. In the waterfront area defined in (a)3 above, the construction, alteration, expansion or reconstruction of an individual single family dwelling unit or addition to such unit, if constructed more than 100 feet landward of the mean high water line;

2. In the waterfront area defined in (a)3 above, the reconstruction, conversion, alteration or enlargement of any existing structure located more than 100 feet landward of the mean high water line, provided that no change in land use results, and that enlargements do not exceed 5,000 square feet;

3. In the waterfront area defined in (a)3 above, minor additions to or changes in existing structures or manufacturing operations that do not result in adverse environmental impacts to Special Areas defined at N.J.A.C. 7:7E- 3, provided the

additions is located in an existing cleared area of the site, and is set back a minimum of 15 feet landward of the mean high water line, where such changes or additions do not result in a change in the present land use of the site;

4. In the waterfront area defined in (a)3 above, the installation of a wind turbine(s) provided the wind turbine(s) is:

i. On or structurally attached to a legally existing building;

ii. Less than 200 feet in height, measured from the ground surface to the tip of the blade at its highest position;

iii. No greater than 2,000 square feet in cumulative rotor swept area; and

iv. Any portion of the tower of the wind turbine more than 100 feet above the ground surface is a freestanding monopole;

5. In the waterfront area defined in (a)3 above, the installation of solar panels provided the solar panels are:

i. On or structurally attached to a legally existing building;

ii. On or structurally attached to a utility pole (electric, telephone, cable and lighting) within a maintained utility right-of-way or on or structurally attached to a parking lot light pole;

iii. On legally existing impervious cover provided the solar panels are not located within a floodway; or

iv. On a sanitary landfill provided the solar panel is included in the Closure and Post-Closure Care Plan or modified plan as approved by the Department in accordance with N.J.A.C. 7:26.

6. The repair, replacement, renovation, or reconstruction, in the same location and size, as measured in three dimensions (length, width and height), of the preexisting structure, of any legally existing dock, wharf, pier, bulkhead or building that appears on the applicable Tidelands Map adopted by the Tidelands Resource Council (base map photography dated 1977/1978) or that appears on the applicable New Jersey Coastal Wetlands maps promulgated by the Department pursuant to the Wetlands Act of 1970 (base map photography dated 1971, 1972) or that received a Waterfront Development permit subsequent to the date of the photograph provided that the repair, replacement, renovation, or reconstruction, in the same location and size of the preexisting structure, and does not increase the size of the structure and the structure is used solely for residential purposes or for the docking of or servicing of pleasure vessels;

7. The repair, replacement, renovation, or reconstruction, in the same location and size, as measured in three dimensions (length, width and height), of the preexisting structure, of any legally existing floating dock, mooring raft or similar temporary or seasonal improvement or structure that appears on the applicable Tidelands Map adopted by the Tidelands Resource Council (base map photography dated 1977/1978), or that appears on the applicable New Jersey Coastal Wetlands photographs promulgated by the Department pursuant to the Wetlands Act of 1970 (base map photography dated 1971, 1972), or received a Waterfront Development permit subsequent to the date of the photograph provided that the repair, replacement, renovation, or reconstruction is in the same location and size of the preexisting structure, and does not exceed in length the waterfront frontage of the parcel of real property to which it is attached and is used solely for the docking of servicing of pleasure vessels; and

8. The redecking and replacement of bridge surfaces provided there is no change in

width, length or height.
(e) – (g) (No change).

SUBCHAPTER 4. PERMIT REVIEW PROCEDURE

7:7-4.2 Application contents

(a) - (f) (No change.)

(g) All applications for the construction of wind turbines that, in accordance with the Energy use rule, N.J.A.C. 7:7E-7.4(r), require pre and/or post-construction monitoring, shall include the proposed monitoring methodology.

SUBCHAPTER 7. GENERAL PERMITS AND PERMITS-BY-RULE

N.J.A.C. 7:7-7.2 Permits-By-Rule

(a) This section details the activities authorized by a Permit-By-Rule.

1. Single family Home or Duplex Expansion: The expansion of a legally constructed, habitable single family home or duplex on the non-waterward sides of the single family home or duplex, provided that the expansion does not exceed a cumulative surface area of 400 square feet on the property constructed after July 19, 1994, and provided that such expansion is not proposed on a beach, dune, or wetland. For example, a 200 square foot expansion of a single family home or duplex could be authorized under this permit-by-rule and an additional 200 square foot expansion could later be authorized under this permit-by-rule, since the cumulative footprint of the development for both expansions would not exceed 400 square feet on the property. However, a property on which a 300 square foot expansion was already constructed pursuant to a permit-by-rule would not be eligible for another permit-by-rule subsequently for an additional 200 square foot expansion since the cumulative total footprint of development for both expansions would exceed 400 square feet.

2. (Reserved)

3. The development (including expansion or reconstruction and expansion) of a single family home or duplex and/or accessory development (such as garages, sheds, pools driveways, grading, excavation and clearing excluding shore protection structures) provided the single family home or duplex and accessory development are located on a bulkheaded lagoon lot and, provided that the proposed single family home or duplex and/or accessory structures comply with all of the following:

i. Development under this permit-by-rule shall not result in development of more than one single family home or duplex either solely or in conjunction with a previous development as defined at N.J.A.C. 7:7-2.1(b)8;

ii. The site is located on a man-made lagoon lot, with an existing bulkhead along the entire waterfront portion of the site;

iii. All waterfront portions of the site are protected by a currently serviceable bulkhead;

iv. There are no wetlands on the site landward of the bulkhead;

v. The proposed single family home or duplex and accessory structures, excluding decks, are set back a minimum of 15 feet from the waterward face of the bulkhead. If there is no alternative to locating the proposed single family home or duplex and

accessory structures at least 15 feet landward of the bulkhead, the set back shall be reduced if an engineering certification is provided demonstrating that, after the proposed development has been constructed, the shore protection structure can be replaced within 18 inches of the existing bulkhead and a conservation restriction is recorded for the property which states that any reconstruction of a bulkhead shall be within 18 inches of the existing bulkhead;

vi. A silt fence is erected landward of the bulkhead with a 10-foot landward return on each end prior to construction. This fence shall be maintained and remain in place until all construction and landscaping activities are completed;

vii. If the development includes the construction of a driveway, any newly constructed portion of the driveway shall be covered with a permeable material or else be pitched to drain all runoff onto permeable areas of the site;

viii. The development shall meet the requirements of N.J.A.C. 7:7E-3.25;

ix. The single family home or duplex shall be serviced by an existing municipal sewer system; and

x. All sub-gravel liners must be made of filter cloth or other permeable material.

4. Placement of public safety or beach/dune ordinance signs on beaches and dunes provided no footings are required, and placement of signs at public parks.

5. The construction of nonresidential docks, piers and boat ramps located landward of the mean high water line, provided that the construction waterward of the mean high water line has received a Waterfront Development permit. The width of the structure landward of the mean high water line shall not exceed the width of the structure waterward of the mean high water line. The width of the structure over wetlands shall not exceed six feet and the height shall be a minimum of four feet over the wetlands. This permit-by-rule also includes the construction of nonresidential decks provided they are not located on a beach, dune or wetland, provided the construction does not require clearing of forest vegetation and provided the size does not exceed a footprint area of 400 square feet. The Waterfront Development permit may include additional conditions (including but not limited to public access to the waterfront) on the upland construction to insure compliance with the Coastal Zone Management rules, N.J.A.C. 7:7E.

6. The construction of the portion of a recreational dock or pier landward of the mean high water line at a residential development, provided that construction waterward of the mean high water line is authorized through the issuance of a Waterfront Development permit. The width of the structure landward of the mean high water line shall not exceed the width of the structure waterward of the mean high water line. The width of the structure over wetlands shall not exceed six feet and the height shall be a minimum of four feet over the wetlands. The Waterfront Development permit may include additional conditions on the upland construction to insure compliance with the Coastal Zone Management rules (N.J.A.C. 7:7E). For example, the Waterfront Development permit may be conditioned to require the dock to cross the wetlands at the narrowest point on the property or to allow continued access along the shoreline.

7. Voluntary Reconstruction: The voluntary reconstruction of a non-damaged legally constructed, currently habitable residential or commercial development within the same footprint, provided that such reconstruction is in compliance with existing requirements or codes of municipal, State and Federal law and provided:

i. The reconstruction does not result in the enlargement or relocation of the footprint

of the development;

ii. In the case of a residential development, the reconstruction does not result in an increase in the number of dwelling units;

iii. In the case of a commercial development, the reconstruction does not result in an increase in the number of parking spaces or equivalent paved area associated with the development;

iv. The construction meets the requirements of N.J.A.C. 7:7E-3.25; and

v. The reconstruction does not increase the area covered by buildings and/or asphalt or concrete pavement.

vi. This permit-by-rule does not apply to repairs or maintenance of the residential or commercial development, such as replacing siding, windows or roofs.

8. The construction of a utility line, including cable (that is, electric, television, or fiber optic), telecommunication, wastewater, petroleum, natural gas, or water, attached to a bridge or culvert. This permit-by-rule applies only to that portion of the utility line that will be constructed across the tidal waterway up to the mean high water line, provided a tidelands instrument has been obtained for the utility line. The construction of the utility line shall comply with the following:

i. No excavation, dredging or filling shall be undertaken within the water body over which the utility line crosses;

ii. The utility line shall be firmly attached to the existing bridge or culvert structure so that no part of the utility line, its encasement, or any attachment device extends above or below the existing bridge or culvert structure;

(1) If the crossing is a bridge, the utility line, its encasement, and all attachment devices shall be located entirely above the elevation of the low chord of the superstructure and entirely below the elevation of the bridge surface;

(2) If the crossing is a culvert, the utility line, its encasement, and all attachment devices shall be located entirely above the overt elevation of the culvert and entirely below the elevation of the top of the culvert;

(3) If the utility line is a pipeline that conveys any substance other than potable water, the utility line shall be sufficiently encased within ductile iron or concrete to protect the utility line from damage from impact with floating debris during floods; and

(4) If there is a predominant direction of flow within the water body, the utility line shall be attached to the downstream face of the bridge or culvert;

iii. The installation of the utility line shall have no adverse impacts to special areas as defined in the Coastal Zone Management rules at N.J.A.C. 7:7E-3;

iv. Construction equipment shall be operated from land, the top of the bridge or culvert, or from barges, and shall under no circumstances be allowed to enter the water body; and

v. This permit-by-rule does not relieve the permittee from the obligation of obtaining all necessary approvals from the U.S. Army Corps of Engineers.

9. Where a single family home or duplex is proposed or exists on a lot which was previously filled and is not part of a larger development, the prior filling of any lands on the lot formerly flowed by the tide shall be considered by the Department to be authorized provided the filling appears on the applicable Tidelands Map adopted by the Tidelands Resource Council (base map photography dated 1977/78). The permit-by-rule is only effective if a tidelands instrument has been obtained for all filled tidelands areas.

10. The construction of the portion of a boat ramp landward of the mean high water line at a residential development, provided that construction waterward of the mean high water line is authorized through the issuance of a Waterfront Development permit. A boat ramp located within wetlands is not authorized by this permit-by-rule. The width of the boat ramp landward of the mean high water line shall not exceed the width of the boat ramp waterward of the mean high water line. The Waterfront Development permit may include additional conditions on the upland construction to insure compliance with the Coastal Zone Management rules (N.J.A.C. 7:7E).

11. The construction and/or installation, at a marina, a boatyard or a boat sales facility, of a boat wash wastewater system that prevents the discharge of boat wash wastewater to the waters of the State, including a boat wash wastewater system necessary to comply with the Equipment and Vehicle Washing provisions of the New Jersey Pollutant Discharge Elimination System (NJPDES) Basic Industrial Stormwater General Permit NJ0088315 (5G2) established under the NJPDES rules, N.J.A.C. 7:14A. This permit-by-rule authorizes the construction of a boat wash wastewater system, including an impervious wash pad or pads connected to a collection system, reclaim/recycling system, or infrastructure to connect to an existing sanitary sewer. This permit by rule additionally authorizes a sump or other mechanism to collect the boat wash waste water, shed(s) to house the treatment system and/or a tank(s) to store the wash water for reuse or collection, as applicable for the system utilized. This permit-by-rule authorizes at any one marina, boatyard, or boat sales facility one to three wash pads and a maximum of three boat wash wastewater systems. Authorization under this permit-by-rule does not relieve a marina or boatyard of the obligation to obtain any other permits from the Department, including a Treatment Works Approval for a sanitary sewer connection or a Basic Industrial Stormwater General Permit NJ0088315 (5G2). Each boat wash wastewater system shall:

- i. Be located on the upland portion of the marina, boatyard, or boat sales facility;
- ii. Be located outside of any wetlands;
- iii. Include a wash pad that is:
 - (1) Equipped with a pit, trough, trench drain, or settling chamber with sump or similar type pump;
 - (2) Bermed or pitched to drain all boat wash wastewater to the pit, trough, trench drain, or settling chamber;
 - (3) Less than or equal to a surface area of 1250 square feet; and
 - (4) Connected to a reclaim/recycling system, collection tank to store boat wash wastewater for reuse or collection/pump out, or a sanitary sewer;
- iv. If the system has a shed or storage unit to house the boat wash wastewater system, the shed or storage unit shall be:
 - (1) Used exclusively to house the boat wash wastewater system;
 - (2) Less than or equal to 150 square feet in size; and
 - (3) Limited to one shed or storage unit per system; and
- v. If the system will discharge to a sanitary sewer, connection shall be to an existing sewer line located on-site or immediately adjacent to the site.

12. The construction of one to three wind turbines less than 200 feet in height, measured from the ground surface to the tip of the blade at its highest position, and having a cumulative rotor swept area no greater than 2,000 square feet provided:

i. No portion of the wind turbine(s), including blades, tower and site disturbance, shall be located in, on or over dunes, beaches, wetlands, coastal bluffs, or wild and scenic river corridors;

ii. No wind turbine tower(s) or site disturbance shall be located in floodways;

iii. The wind turbine(s), including blades, tower and site disturbance, is set back a minimum of 50 feet, as measured parallel to the ground;

(1) Landward of the mean high water line and the inland limit of any beach or dune. This setback does not apply to manmade lagoons and manmade ditches; and

(2) From the boundary of any wetlands;

iv. No portion of the wind turbine, including blades, tower and site disturbance, shall be located within an area mapped as threatened or endangered species habitat on the Department's Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife (Landscape Maps) except as provided at (1) and (2) below. The Landscape Maps are available on the Department's interactive mapping website at <http://www.nj.gov/dep/gis>;

(1) The wind turbine(s) is located within 120 feet of an existing building on an actively maintained lawn or area of land that has been manipulated by contouring of the soil and/or by intentional planting of flowers, grasses, shrubs, trees or other ornamental vegetation, which is maintained in such a condition by regular and frequent (at least one time per year) cutting, mowing, pruning, planting, weeding or mulching; or

(2) The wind turbine(s) is located on legally existing impervious cover;

v. If the wind turbine(s) is more than 120 feet tall, measured from the ground surface to the tip of the blade at its highest position, the tower shall be a freestanding monopole(s);

vi. No lighting shall be placed on or directed at the wind turbine except for lighting required by the Federal Aviation Administration. Shielded ground level security lighting may be used. Lighting is shielded when it is covered in a way that light rays are not emitted above the horizontal plane of the light; and

vii. Development under this permit-by-rule shall not result in construction of more than three wind turbines on a site, either solely or in conjunction with a previous wind turbine development.

13. The installation of solar panels on a maintained lawn or landscaped area at a single family home or duplex lot provided:

i. The solar panel development shall not be located in or on dunes, beaches, wetlands, floodways, or coastal bluffs;

ii. The solar panel development shall be setback a minimum of 50 feet from the inland limit of any wetlands, beach, or dune;

iii. The maintained lawn or landscaped area is not subject to a previous coastal permit requirement that it remain as vegetative cover; and

iv. The solar panel development shall not be located within an area mapped as threatened or endangered species habitat on the Department's Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife (Landscape Maps), except as provided at (1) and (2) below. The Landscape Maps are available on the Department's interactive mapping website at <http://www.nj.gov/dep/gis>;

(1) The solar panel(s) is located within 120 feet of an existing building on an actively maintained lawn or area of land that has been manipulated by contouring of the soil and/or by intentional planting of flowers, grasses, shrubs, trees or other ornamental vegetation, which is maintained in such a condition by regular and frequent (at least one time per year) cutting, mowing, pruning, planting, weeding or mulching; or

(2) The solar panel(s) is located on legally existing impervious cover.

N.J.A.C. 7:7-7.4 through 7.20 (No change.)

N.J.A.C. 7:7-7.30 Coastal general permit for the construction of one to three wind turbines less than 200 feet in height and having a cumulative rotor swept area no greater than 4,000 square feet

(a) This coastal general permit authorizes the construction of one to three wind turbines less than 200 feet in height, measured from the ground surface to the tip of the blade at its highest position, and having a cumulative rotor swept area no greater than 4,000 square feet provided:

1. No portion of the wind turbine(s), including blades, tower and site disturbance, shall be located in, on or over dunes, beaches, wetlands, coastal bluffs, or wild and scenic river corridors;

2. No wind turbine tower(s) or site disturbance shall be located in floodways;

3. The wind turbine(s), including blades, tower and site disturbance, is set back a minimum of 50 feet, as measured parallel to the ground:

i. Landward of the mean high water line and the inland limit of any beach or dune. This setback does not apply to manmade lagoons and manmade ditches; and

ii. From the boundary of any wetlands;

4. The wind turbine(s) shall comply with N.J.A.C. 7:7E-3.38, Endangered or threatened wildlife or plant species habitat and N.J.A.C. 7:7E-3.39, Critical wildlife habitat;

5. Development under this general permit shall not result in construction of more than three wind turbines on a site, either solely or in conjunction with a previous wind turbine development;

6. If the wind turbine(s) is more than 120 feet tall, measured from the ground surface to the tip of the blade at its highest position, the tower shall be a freestanding monopole(s);

7. No lighting shall be placed on or directed at the wind turbine except for lighting required by the Federal Aviation Administration. Shielded ground level security lighting may be used. Lighting is shielded when it is covered in a way that light rays are not emitted above the horizontal plane of the light; and

8. In order to assess the impact of the operation of wind turbines authorized under this coastal general permit on avian species and bats, post-construction monitoring shall be required for the first 15 wind turbine developments constructed under this coastal general permit, where the rotor swept area either individually or cumulatively on a site, exceeds 2,000 square feet. The monitoring shall be conducted for one full year beginning immediately after the wind turbines begin operation and shall consist of bird and bat carcass searches as well as removal and efficiency trials.

The monitoring methodology shall be approved by the Department prior to initiation and a complete report of findings submitted to the Department within three months of completion of the monitoring. The Department has prepared a technical manual titled, "Technical Manual for Evaluating Wildlife Impacts of Wind Turbines Requiring Coastal Permits," which provides guidance on monitoring and reporting. The technical manual is available from the Department's Division of Land Use Regulation website www.state.nj.us/dep/landuse.

(b) In accordance with N.J.A.C. 7:7-7.1(e)1, the Department may add a special condition to an authorization under this general permit, that would curtail the operation of the wind turbines, as directed by the Department pursuant to (b)1 below, during peak spring (April through June) and fall (August through November) migration periods when migrating birds or bats would likely be flying at the height of the rotor swept area or be present at seasonally high densities throughout the entire air column. Such curtailment shall not exceed 360 hours in a calendar year per turbine that occurs within the normal range of operation of the turbine. Curtailment measures include establishing a minimum wind speed that must be achieved prior to starting operations and shutting down operations during certain weather conditions or migratory events. Weather conditions that may necessitate curtailment include low wind speeds, low altitude cloud cover, strong storms, or approaching weather fronts favorable to bird or bat migration (such as southerly winds in the spring or northwest winds in the fall). Migratory events that may necessitate curtailment include high concentrations of migrating birds and bats using the coastal area (for example, high concentrations of shorebirds making daily flights between coastal feeding areas, such as mudflats, and roosting areas during spring migration).

1. Limitations on operation shall be developed by the Department based on monitoring results and published and unpublished studies or data. The Department shall notify the permittee in writing of the operational limitations by March 15th of the first year curtailment is required during the spring migration and by July 15th of the first year curtailment is required during the fall migration. These operational limitations shall remain in effect unless the Department notifies the permittee in writing by the above dates in subsequent years that changes to operational limitations are required. This information shall also be made available on the Department's website at www.state.nj.us/dep/landuse.

(c) In addition to the application and information required under N.J.A.C. 7:7E-7.3, the following information shall be submitted:

1. Five copies of a site plan showing the following:

i. The mean high water lines of the tidal waters within 50 feet of any portion of the wind turbine(s), including blades, tower and site disturbance;

ii. Existing features at the site including topography, structures, utilities, beach areas, dune areas, coastal bluffs, and floodways;

iii. The upper limits of wetlands, beaches, dunes and coastal bluffs within 150 feet of any portion of the wind turbine(s), including blades, tower and site disturbance;

iv. The proposed location of each proposed wind turbine, all limits of disturbance, grading, and existing and proposed clearing areas; and

- vi. The proposed lighting for each proposed wind turbine;
 2. Five copies of an elevation plan of each proposed wind turbine;
 3. The total height and rotor swept area for each proposed wind turbine;
 4. Five copies of the post-construction monitoring methodology, if applicable;
- and
5. Five copies of a Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed wind turbine(s) comply with (a) above, including supplemental documents as appropriate, such as maps or surveys.

N.J.A.C. 7:7-7.31 Coastal general permit for the construction of wind turbines less than 250 feet in height and having a cumulative rotor swept area no greater than 20,000 square feet

(a) This coastal general permit authorizes the construction of wind turbines less than 250 feet in height, measured from the ground surface to the tip of the blade at its highest position, and having a cumulative rotor swept area no greater than 20,000 square feet provided:

1. No portion of the wind turbine(s), including blades, tower and site disturbance, shall be located in, on or over dunes, beaches, wetlands, coastal bluffs, or wild and scenic river corridors;

2. No wind turbine tower(s) or site disturbance shall be located in floodways;

3. The wind turbine(s), including blades, tower and site disturbance, is set back a minimum of 50 feet, as measured parallel to the ground:

- i. Landward of the mean high water line and the inland limit of any beach or dune. This setback does not apply to manmade lagoons and manmade ditches; and

- ii. From the boundary of any wetlands;

4. No portion of the wind turbine(s), including blades, tower and site disturbance shall be located within:

- i. An area mapped as threatened or endangered species habitat on the Department's Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife (Landscape Maps). The Landscape Maps are available on the Department's interactive mapping website at <http://www.nj.gov/dep/gis>;

- ii. An area identified on the Department's Large Scale Wind Turbine Siting Map, dated August 8, 2009, incorporated by reference into N.J.A.C. 7:7E. The Department's Large Scale Wind Turbine Siting Map is available on the Department's interactive mapping website at <http://www.nj.gov/dep/gis>; or

- iii. One-quarter mile of an area identified on the Department's Large Scale Wind Turbine Siting Map;

5. The wind turbine(s) shall comply with N.J.A.C. 7:7E-3.39, Critical wildlife habitat rule;

6. Development under this general permit shall not result in construction of turbines with a cumulative rotor swept area, as defined at N.J.A.C. 7:7-1.3, greater than 20,000 square feet on a site, either solely or in conjunction with a previous wind turbine development;

7. If the wind turbine(s) is more than 120 feet tall, measured from the ground surface to the tip of the blade at its highest position, the tower shall be a freestanding monopole(s);

8. No lighting shall be placed on or directed at the wind turbine except that lighting required by the Federal Aviation Administration and shielded ground level security lighting may be used. Lighting is shielded when it is covered in a way that light rays are not emitted above the horizontal plane of the light; and

9. In order to assess the impact of the operation of wind turbines authorized under this coastal general permit on avian species and bats, post-construction monitoring shall be required. The monitoring shall be conducted for one full year beginning immediately after the wind turbines begin operation and shall include bird and bat carcass searches as well as removal and efficiency trials. The monitoring methodology shall be approved by the Department prior to initiation and a complete report of findings submitted to the Department within three months of completion of the monitoring. The Department has prepared a technical manual titled, "Technical Manual for Evaluating Wildlife Impacts of Wind Turbines Requiring Coastal Permits," which provides guidance on monitoring and reporting. The technical manual is available from the Department's Division of Land Use Regulation website www.state.nj.us/dep/landuse.

(b) In accordance with N.J.A.C. 7:7-7.1(e)1, the Department may add a special condition to an authorization under this general permit, that would curtail the operation of the wind turbines as directed by the Department pursuant to (b)1 below, during peak spring (April through June) and fall (August through November) migration periods when migrating birds or bats would likely be flying at the height of the rotor swept area or be present at seasonally high densities throughout the entire air column. Such curtailment shall not exceed 360 hours in a calendar year per turbine that occurs within the normal range of operation of the turbine. Curtailment measures include establishing a minimum wind speed that must be achieved prior to starting operations and shutting down operations during certain weather conditions or migratory events. Weather conditions that may necessitate curtailment include low wind speeds, low altitude cloud cover, strong storms, or approaching weather fronts favorable to bird or bat migration (such as southerly winds in the spring or northwest winds in the fall). Migratory events that may necessitate curtailment include high concentrations of migrating birds and bats using the coastal area (for example, high concentrations of shorebirds making daily flights between coastal feeding areas, such as mudflats, and roosting areas during spring migration).

1. Limitations on operation shall be developed by the Department based on monitoring results and published and unpublished studies or data. The Department shall notify the permittee in writing of the operational limitations by March 15th of the first year curtailment is required during the spring migration and by July 15th of the first year curtailment is required during the fall migration. These operational limitations shall remain in effect unless the Department notifies the permittee in writing by the above dates in subsequent years that changes to operational limitations are required. This information shall also be made available on the Department's website at www.state.nj.us/dep/landuse.

(c) In addition to the application and information required under N.J.A.C. 7:7E-7.3, the following information shall be submitted:

1. Five copies of a site(s) plan showing the following:

i. The mean high water lines of the tidal waters within 50 feet of any portion of the wind turbine(s), including blades, tower and site disturbance;

ii. Existing features at the site including topography, structures, utilities, beach areas, dune areas, coastal bluffs, floodways, and limits of the areas identified on the Department's Large Scale Wind Turbine Siting Map and areas within one-quarter mile of mapped areas;

iii. The landward limits of wetlands, beaches, dunes and coastal bluffs within 50 feet of any portion of the wind turbine(s), including blades, tower and site disturbance;

iv. The proposed location of each proposed wind turbine, including all limits of disturbance, grading, and existing and proposed clearing areas; and

vi. The proposed lighting for each proposed wind turbine;

2. Five copies of an elevation plan of each proposed wind turbine;

3. The total height and rotor swept area for each proposed wind turbine;

4. Five copies of the post-construction monitoring methodology; and

5. Five copies of a Compliance Statement prepared in accordance with N.J.A.C. 7:7-6, demonstrating how the proposed wind turbine(s) comply with (a) above, including supplemental documents as appropriate, such as maps or surveys.