Table A - Routine Program Change
Coastal Permit Program rules
N.J.A.C. 7:7-1.3, 2.1, 2.3, 7.2, 7.13, 7.29, and 7.32 through 7.36
12-10-13

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
SUBCHAPTER 1. GENERAL PROVISIONS					
7:7-1.3 Definitions	**ADDED:** Definitions of duplex, living shoreline, non-polluting material, and pumpout facility	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	A definition of "living shoreline" is added. Under this rulemaking, the Department is encouraging the installation of living shorelines along coastal waters. The definition of living shoreline is based upon the Department's review of definitions used by other states, universities and conservation organizations. A definition of "non-polluting material" is added. Docks, piers or moorings, when allowed in shellfish habitat or waters, are required to be constructed of non-polluting material. The definition is similar to that in the Statewide Programmatic General Permit 19 (SPGP-19) adopted by the USACE (http://www.nan.usace.army.mil/Missions/Regulatory/RegionalGeneralPermits) except that "steel" has been added to the list of examples of non-polluting materials and the term "Wolmanized" deleted from the examples of lumber not considered "non-polluting material" since this term is a specific trade name for pressure-treated wood protection using preservatives, which is already covered by the description in the definition. A definition of "pumpout facility" is added. A pumpout facility is a facility intended to receive the discharge of wastewater from a marine sanitation device; examples of pumpout facilities are included in the definition. The definitions section has been revised to incorporate additional terms used in the chapter. These changes are not substantial changes to special management areas, uses subject to management, authorities and organization, or national interest as they merely define the terms used throughout the Chapter.
SUBCHAPTER 2. Activities for which a permit is required					
7:7-2.1 CAFRA	**MODIFIED 2.1(b):** Included exemption for the rehabilitation and use of an	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq.	April 16, 2013	April 16, 2013	N.J.A.C. 7:7-2.1(b) provides the Department's interpretation of the statutory intent of CAFRA, including its interpretation of various terms appearing in the Act, as it applies to particular forms of development. At N.J.A.C. 7:7-2.1(b)13iii, the rehabilitation and use of an existing dredged material

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7:7-2.1 (continued)	existing dredged material management area within the same footprint	N.J.S.A. 13:19-1 et seq. State Permitting Program			management area within the same footprint is included as an activity that is not a development under CAFRA and therefore does not require a CAFRA permit. The Department's determination that a dredged material management area does not require a CAFRA permit is consistent with its application of these rules to similar projects. By way of illustration, the definition of "development" at N.J.A.C. 7:7-1.3 includes the "construction, relocation or enlargement of the footprint of development of any building or structure…" If the footprint of development of the structure does not increase, no CAFRA permit is required. The change to N.J.A.C. 7:7-2.1(b)13iii makes clear that a CAFRA permit is not required for the rehabilitation of an existing dredged material management area provided it is within the same footprint. The Department will review the potential impacts of rehabilitating each dredged material management area on a case-by-case basis through the application for the proposed dredging activity under a waterfront development permit and through the review of the water quality certificate under Section 401 of the Federal Clean Water Act, 33 U.S.C. §1341. In its review of an application for dredging activities, the Department evaluates the material and area to be dredged, as well as the area in which the dredged material will be placed. In addition to requiring a waterfront development permit, these activities also require a water quality certificate under Section 401 of the Federal Clean Water Act, 33 U.S.C. §1341. The CZM rules are used to review the permit application and certification request. For example, the CZM rules' wetlands rule at N.J.A.C. 7:7E-3.27(g) sets forth the standards for the reuse of dredged material management areas that require a waterfront development permit. The water quality rule at N.J.A.C. 7:7E-8.4(a) requires compliance with the Surface Water Quality Standards at N.J.A.C. 7:9B. As applicable, the Department ensures a permit is obtained for activities affecting freshwater wetlands in accordance with the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A, and requires timing restrictions to minimize impacts to threatened or endangered wildlife or plant species habitats or critical wildlife habitat. Therefore the impacts to special areas that would be addressed through the review of a CAFRA individual permit are addressed through the review of the application for a waterfront development individual permit. Accordingly, this change is not a substantial change to uses subject to management, special management areas, authorities and organization, or consideration of the national interest as the dredged material management area will continue to be reviewed by the Department.

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-2.3 Waterfront Development	**MODIFIED 2.3(d)6 and 7:** Refined how the size of the structure is determined	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	N.J.A.C. 7:7-2.3(d)6 and 7 exempt from the general requirement that a waterfront development permit be obtained for the construction, reconstruction, alteration, expansion, or enlargement of any structure the repair, replacement, renovation, or reconstruction of various waterfront structures in the same location and size. In 2006, these provisions were amended to clarify that the size of a structure is measured in three dimensions, length, width, and height. In certain situations, the use of three dimensions is appropriate, while in others it is not. Therefore the Department has determined to refine how the size of the structure is determined in order to facilitate a resilient recovery of the shore. Where the structure to be repaired, replaced, renovated or reconstructed in the same location is a dock or pier over wetlands, or a low profile bulkhead where the top of the bulkhead is constructed at an elevation below the spring high water line, or a building over wetlands or water, N.J.A.C. 7:7-2.3(d)6i requires that the size of the original structure that is to be repaired, replaced, renovated or reconstructed in the same location and size must be measured in length, width, and height. This requirement is intended to protect special areas. For example, an increase in the height of a low profile bulkhead could prevent water from reaching wetlands behind the bulkhead, thereby altering the wetlands hydrology and adversely impacting this special area. A decrease in the height of a dock or pier over wetlands, or an increase in the height of a building over wetlands or water, could adversely impact those special areas by decreasing the amount of sunlight penetration. N.J.A.C. 7:7-2.3(d)6ii applies to any dock, wharf, pier or bulkhead, or building not identified at (d)6i above and provides that the size of the original structure that is to be repaired, replaced, renovated or reconstructed in the same location and size is to be measured only in length and width since the height of these structures is not a factor in determining compliance with the coastal rules. The size of the replacement structure as measured in height may vary from the original structure because these structures will not adversely affect special areas. For example, an applicant can replace a floating dock with a fixed dock and vice versa and the replacement structure will have no adverse impact to the water area. For similar reasons, at N.J.A.C. 7:7-2.3(d)7, as modified, the legally existing floating docks, mooring rafts or similar temporary or seasonal structures that are to be repaired, replaced, renovated, or reconstructed in the same location and size are to be measured in two

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-2.3 (continued)					dimensions, length and width, for purposes of determining if the repair, replacement, renovation, or reconstruction can be conducted without a permit. These changes will enable those choosing to rebuild in coastal communities in the aftermath of Superstorm Sandy to do so in a more resilient and environmentally protective manner. These changes are not a substantial change to uses subject to management, special management areas, authorities and organization, or consideration of the national interest and are protective of special areas as they merely clarify how the size of the structure is determined.
SUBCHAPTER 7. General permits and permits-by-rule A permit-by-rule (PBR) is a permit for activities that the Department has determined have minimal potential for environmental impact, provided the conditions of the PBR are met. No plans, application forms, or photographs need to be submitted to the Department for an activity or development eligible for a PBR. Under this rulemaking, the Department added 8 new PBRs and modified 1 existing PBR. The addition of these 9 PBRs and modification of 1 PBR does not change the jurisdiction of CAFRA or the Waterfront Development Law and merely changes the vehicle under which the activity may be authorized. If a proposed activity is not eligible for authorization under a PBR, it may still be eligible for authorization under a general permit (GP) or individual permit. Further, in accordance with N.J.A.C. 7:7-7.1(c), General Standards for issuing coastal general permits and permits-by-rule, the Department may issue a PBR under the Coastal Permit Program rules only if certain conditions are met. Specifically, the Department must determine that the regulated development will cause only minimal adverse environmental impacts when performed separately, will have only minimal cumulative adverse impacts on the environment, and is in keeping with the legislative intent to protect and preserve the coastal area from inappropriate development. It must also determine that the development will be in conformance with the purposes of applicable statutes. The new PBRS and modified PBR satisfy the requirements of N.J.A.C. 7:7-7.1(c). Specifically, the PBRs are limited in a manner that will assure that any development occurring pursuant to one of these permits will not have more than minimal adverse impacts on the environment, either separately or cumulatively (when considered in combination with other projects). Using a PBR will not compromise the Department's efforts to protect and preserve the coastal areas from inappropriate development, because the proposed PBRs contain specific criteria intended to minimize their environmental impacts. Based on the above and for the reasons discussed under each PBR, the Department does not consider the addition of these 9 PBRs and modification of one existing PBR a substantial change to uses subject to management, special management areas, authorities and organization or national interest. Each new PBR and a description of the activities authorized under that PBR follows.					
7:7-7.2(a)7 Permit-by-rule for the reconstruction of a legally constructed, residential or commercial development within the same footprint	**MODIFIED 7.2(a)7:** Also applies to the reconstruction of a residential or commercial structure that was damaged or destroyed	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	The PBR for the voluntary reconstruction of a non-damaged, currently habitable residential or commercial development within the same footprint is modified to delete the requirement that the development be non-damaged. CAFRA exempts the reconstruction of a development damaged in whole or in part by fire, storm, natural hazard, or act of God. This exemption is recognized in the rules at N.JA.C. 7:7-2.1(c)3. Therefore, prior to this rulemaking, this PBR applied only to the voluntary reconstruction of a non-damaged residential or commercial development in the CAFRA area. However, the Waterfront Development Law does not exempt reconstruction of a development located within the upland waterfront development area that was damaged or destroyed by fire, storm, natural hazard or act of God. The upland waterfront development area is defined in the CZM rules as the lands outside of the CAFRA area extending from the mean high water line of a tidal water body to the first paved public road, railroad or surveyable property line

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.2(a)7 (continued)					existing on September 26, 1980 generally parallel to the waterway, provided that the landward boundary of the upland area shall be no less than 100 feet and no more than 500 feet from the mean high water line. Therefore, under the rules prior to these amendments, the reconstruction of a residential or commercial development in the upland waterfront development area that was damaged by a storm or other event required authorization under a GP or an individual permit. The deletion of the requirement that the development be non-damaged facilitates the rebuilding of any residential or commercial development in the CAFRA or upland waterfront development areas of the coastal zone regardless of whether the reconstruction is voluntary or the result of damage or destruction, provided the reconstruction complies with all municipal, State and Federal requirements as well as the requirements specified at N.J.A.C. 7:7-7.2(a)7i through vi, which have not been modified as part of this rulemaking. The term “voluntary” is also deleted since the scope of the PBR has been expanded to include both voluntary reconstruction and reconstruction of a development that was damaged. Prior to these amendments, “voluntary” was used to describe the rebuilding of a non-damaged structure. The modified PBR also requires that the development must have been or could have been legally occupied in the most recent five year period. This provision is intended to exclude the reconstruction of residential and commercial developments that have not been recently occupied or are derelict while taking into account that, after a storm or other event rendering the structure uninhabitable, there may be some period before reconstruction begins when the structure is not inhabited. The Department has determined that the PBR as modified will result in minimal adverse environmental impact as it allows for the reconstruction of a residential or commercial development within the same footprint. The PBR does not allow for the enlargement or relocation of the footprint of development, an increase in the area covered by buildings and/or asphalt or concrete pavement, an increase in the number of dwelling units if the development is a residential development, and an increase in the number of parking spaces if the development is a commercial development. The PBR required that the development meet the standards of the flood hazard area rule.

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.2(a)7 (continued)					Based on the above, and the general summary of the PBRs, the changes to this PBR are not a significant change to the uses subject to management, special management areas, authorities and organization or consideration of the national interest.
7:7-7.2(a)8 Permit-by-rule for expansion or relocation (with or without expansion) of the footprint of a residential or commercial development	**ADDED 7.2(a)8:** New PBR for expansion or relocation (with or without expansion) of the footprint of a legally constructed residential, including accessory structures, or commercial development, landward or parallel to the mean high water line provided the development has been or could have been legally occupied in the most recent five year period.	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	This new PBR allows the expansion or relocation (with or without expansion) of the footprint of a legally constructed residential development, including accessory structures, or commercial development, landward or parallel to the mean high water line provided the development has been or could have been legally occupied in the most recent five year period. Under this PBR, the expansion or relocation must not be proposed on a beach, dune, or wetland. However, structures such as stairs or an ADA-compliant ramp, which are constructed only for access to a residential or commercial development required to be elevated pursuant to the New Jersey Uniform Construction Code in accordance with the Flood Hazard Area Control Act rules, for which there is no feasible alternative location outside of a beach, dune, wetland, are allowed under the PBR. Also, the reconstruction or relocation can have no additional impacts to special areas, although again, structures such as stairs or an ADA-compliant ramp, which are constructed only for access to a residential or commercial development required to be elevated and for which there is no feasible alternative location outside of special areas, are permitted. The Department has determined that in these limited circumstances, these structures will have minimal impacts. The expansion or relocation cannot increase the number of dwelling units, if it is a residential development, or increase the number of parking spaces, if it is a commercial development. The construction of the expansion or relocation must meet the CZM rules' flood hazard area rule at N.J.A.C. 7:7E-3.25 and riparian zone rule at N.J.A.C. 7:7E-3.26. In addition, for expansions only, the expansion cannot exceed a cumulative surface area of 400 square feet on the property constructed after July 19, 1994, which is the date that the CAFRA regulatory thresholds were amended to reflect a tiered approach depending upon the type of development and its proximity to the mean high water line, a beach or a dune, and must be located on the non-waterward side of the development. The above requirements ensure that the expansion or relocation (with or without expansion) of the residential or commercial development does not adversely affect special areas, the structure is constructed in a manner that is consistent with the Department's standards for elevation and flood proofing, and the development is not located closer to a tidal waterway. For these

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.2(a)8 (continued)					reasons and as discussed in the general summary of the PBRs, the addition of this new PBR is not a significant change to the uses subject to management, special management areas, authorities and organization or consideration of the national interest.
7:7-7.2(a)15 Permit-by-rule for the reconfiguration of any legally existing dock, wharf, or pier located at a legally existing marina	**ADDED 7.2(a)15:** New PBR for reconfiguration of any legally existing dock, wharf, or pier located at a legally existing marina that is not located within shellfish habitat, submerged vegetation habitat, or wetlands	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	This new PBR allows for the reconfiguration of any legally existing dock, wharf, or pier located at a legally existing marina that is not located within shellfish habitat, submerged vegetation habitat, or wetlands. The reconfiguration of existing docks, wharfs, or piers within shellfish habitat, submerged vegetation habitat, and wetlands requires review by the Department to ensure that these special areas are not adversely impacted by the relocated structures and their use. The reconfiguration of a dock, wharf, or pier within a marina qualifies for this PBR provided the reconfiguration does not result in structures located outside the area covered by an existing Tidelands instrument, increase the number of boat slips, hinder navigation, or increase the total linear footage of docks or piers in the marina. In addition, the structures must be configured in such a manner as to minimize the water area covered by structures and provide a minimum of four feet from all property lines. These requirements ensure additional water areas are not affected by the reconfiguration, the number of boat slips and linear footage of docks or piers at the marina are not increased, the water area covered by structures is minimized, and navigation in the waterway and access to any adjacent docks is not impeded. The reconfiguration of docks, wharfs, and piers at a marina when located in accordance with the requirements of this PBR will have minimal adverse impact on water areas and navigation. For these reasons and as discussed in the general summary of the PBRs, the addition of this new PBR is not a significant change to the uses subject to management, special management areas, authorities and organization or national interest.
7:7-7.2(a)16 Permit-by-rule for the placement of sand fencing to create or sustain a dune	**ADDED 7.2(a)16:** New PBR for placement of sand fencing to create or sustain a dune, provided the fencing does not require the grading or excavation of a dune	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	This new PBR allows the placement of sand fencing to create or sustain a dune, provided the fencing does not require the grading or excavation of a dune. The placement of sand fencing for the purposes of creating or sustaining a dune is a common practice in the coastal zone and, when sand fencing is placed in accordance with the requirements of this PBR, it will have no adverse environmental impact. As illustrated by the State's recent experience with the impacts of Superstorm Sandy, robust beach and dune systems assist in protecting coastal communities from severe damage from

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.2(a)16 (continued)					storms. Dunes are dynamic natural features that help protect lives and property in adjacent landward areas, and buffer barrier islands and spits from the effects of major natural coastal hazards such as hurricanes, storms, flooding, and erosion. Beaches are habitat for threatened and endangered beach nesting birds, such as piping plovers and least terns, and plant species, such as seabeach amaranth. To ensure that the placement of the sand fencing will not adversely affect threatened and endangered wildlife and plant species habitat which is located on the waterward side of the dune, this PBR requires that the sand fencing be located on the landward side of the dune. To protect the public's ability to access tidal waters, this PBR requires that the sand fencing be placed parallel to the mean high water line, and provides that the sand fencing cannot prevent perpendicular public access to the beach. As such, breaks in the fencing may be necessary to maintain perpendicular access. The placement of sand fencing to create or sustain a dune when placed in accordance with the requirements of this PBR will have no adverse environmental impact. For these reasons and as discussed in the general summary of the PBRs, the addition of this new PBR is not a significant change to the uses subject to management, special management areas, authorities and organization and national interest.

PBRS FOR AQUACULTURE ACTIVITIES

The Department has added new PBRs at N.J.A.C. 7:7-7.2(a)17, 18, and 19 which are intended to assist in the restoration of the shellfish aquaculture industry and encourage and facilitate new and continued shellfish aquaculture activities. In addition to adding 3 new PBRs for shellfish aquaculture activities, the Department has added 2 new GPs and modified the CZM rules' aquaculture general water area rule as discussed later in this submission.

As indicated in the New Jersey Coastal Management Program's Section 309 Assessment 2011-2015, almost all aquaculture in New Jersey's waters involves hard clams and oysters. However, of the approximately 2,500 acres of bay or river bottom leased for shellfish aquaculture along the Atlantic Coast estuaries (excluding the Delaware Bay), less than an estimated 600 acres are actively used for hard clam aquaculture activities. Further, while oyster aquaculture activities are dominant in the Delaware Bay, of the approximately 34,000 acres of bay bottom leased, less than 10 percent of those acres are actively used for traditional aquaculture activities such as shell planting and seed transplanting. Nevertheless, both hard clams and oysters have a long history of commercial production, and the biological benefits and commercial potential remain quite high in New Jersey.

The production of hard clams within the Atlantic coastal estuaries is of particular importance to aquaculture in New Jersey. The best data currently available indicates that in New Jersey hard clams account for two-thirds of total aquaculture farm-gate sales (that is, sales directly from the producer). In fact, New Jersey ranks fifth among hard clam producing states behind Virginia, Florida, Connecticut, and Massachusetts. The top one-third of hard clam growers produces 87 percent of all hard clams grown in New Jersey. Many of these top growers are third to fifth generation harvesters whose families helped to develop a hard clam aquaculture industry in New Jersey.

The Delaware Bay oyster industry is one of the oldest forms of aquaculture in North America. Most of the current harvest comes directly from the seed beds rather than aquaculture leases, mainly because of problems with mortality associated with the oyster diseases MSX and Dermo.

The new PBRs are limited to shellfish aquaculture activities, because as evidenced above, shellfish aquaculture is the form of aquaculture most prevalent in New Jersey. Other types of aquaculture activities, while not subject to authorization under a PBR, may be permitted under an individual permit.The amendments and new rules related to aquaculture provide a streamlined and systematic permitting structure for the shellfish aquaculture industry in order for the industry to develop and operate at an economically sustainable level while protecting environmental quality and reducing user group conflicts. Further, these changes will improve interagency coordination as well as the management of shellfish aquaculture activities in the State. An efficient permitting system combined with effective environmental oversight of shellfish aquaculture activities is critical to protect public welfare and resources and to ensure the continued viability of shellfish aquaculture operations.

These changes will not impose any new permitting burdens on the industry; rather, the rules reduce the permitting requirements for certain activities that have been found to have minimal adverse impacts to the environment and, in many cases, positive environmental impacts. In addition, the new permits will allow the shellfish aquaculture industry to investigate new grow-out methods and will encourage small-scale innovation without compromising the environment. By allowing small scale initiatives the State will encourage innovative aquaculture activities and maintain existing traditional operations. Knowledge gained from small-scale initiatives within the industry will increase production, which would contribute to the overall health of New Jersey coastal waters as well as to the State's economy. Therefore, the Department anticipates that the proposed amendments and new rules will have a significant benefit on the aquaculture industry.

Each new PBR and a description of the activities authorized under that PBR follow.

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.2(a)17 Permit-by-rule for land-based upwellers and raceways for aquaculture	**ADDED 7.2(a)17:** New PBR for placement of land-based upwellers and raceways	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	This new PBR authorizes the placement of land-based upwellers and raceways, including intakes and discharges, for aquaculture activities. An upweller is a flow-through system that is used for growing shellfish seed contained in compartments where water, which is drawn from the adjacent water body, flows through the system to carry nutrients to the seed. A raceway is a long rectangular flow-through system in which shellfish seed can be grown to a sufficient size for planting. Water drawn from the adjacent waterway nourishes the juvenile shellfish, which, in turn, filter the water prior to its discharge, thereby improving the quality of the discharged water. Land-based upwellers and raceways, when appropriately placed, do not adversely affect the adjacent waters. As stated above, the discharged water from a land-based upweller or raceway does not have an adverse effect on water quality. When located in appropriate upland areas, the structures and activity will not have an effect on special areas. Accordingly, this PBR requires the structures be located on the upland portion of a lot with a legally existing, functioning bulkhead thus ensuring that wetlands, beaches and dunes are not present on the site. The grading, excavation, filling, or placement of structures on a beach, dune or wetland is prohibited. This PBR also requires that the discharge of the water from the system must be to a water body and not directly into a wetland in order to protect any wetlands on the site from impacts such as erosion.

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.2(a)17 (continued)					The placement of land-based upwellers and raceways in accordance with the requirements of this PBR will have no adverse environmental impact. For these reasons and as discussed in the summary of the aquaculture PBRs, the addition of this new PBR is not a significant change to the uses subject to management, special management areas, authorities and organization or consideration of the national interest.
7:7-7.2(a)18 Permit-by-rule for the placement of predator screens and oyster spat attraction devices within a shellfish lease area	**ADDED 7.2(a)18:** New PBR for placement of predator screens and oyster spat attraction devices within a shellfish lease area	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	This new PBR authorizes the placement of predator screens and oyster spat attraction devices within a shellfish lease area. Predator screens allow shellfish seed to grow to a harvestable size by reducing predation. Oyster spat attraction devices, such as Chinese hats, French sticks and shell bags, provide oyster larvae (spat) with a suitable material on which to attach and grow, and then be efficiently collected for planting on oyster bottom or aquaculture grow-out equipment. Shellfish aquaculturists have traditionally used these devices without any adverse environmental effects. Predator screens and oyster spat attraction devices are temporarily placed on the bay or river bottom during times when clam seed is planted or during the spawning time for oysters. This PBR does not authorize the placement of shell within a shellfish lease area. Predator screens and oyster spat attraction devices can also have a positive environmental impact because, in addition to increasing shellfish populations in a given area, they provide habitat for other marine organisms such as juvenile fish and crabs. This PBR requires that predator screens and oyster spat attraction devices be located in an area that is covered by a valid shellfish lease issued pursuant to N.J.S.A. 50:1-23, which governs the leasing of shellfish areas. Shellfish leases are issued by the New Jersey Shellfisheries Council, subject to approval by the Commissioner and in accordance with the Department's shellfish lease regulations at N.J.A.C. 7:25-24. To ensure that the structures are promptly removed so that they do not create a hazard or nuisance after a lease is terminated or the use of predator screens and oyster spat attraction devices cease, this PBR requires that these structures be removed within five days after expiration or termination of a shellfish lease or the cessation of the use of predator screens and oyster spat attraction devices, whichever occurs first. Further, to ensure that the predator screens will not present a hazard to navigation, the screens must not extend into the water column more than six inches above the substrate and that all oyster spat attraction devices must not

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.2(a)18 (continued)					extend more than 24 inches above the substrate. A typical oyster spat attraction device is approximately 24 inches in height. Therefore, this limit will allow the placement of these structures on the water body bottom while not posing a hazard to navigation. This PBR requires that no activity undertaken under this PBR prevent the catching and taking of free swimming fish from the tidal waters of the State in any lawful manner in accordance with N.J.S.A. 50:1-33. The placement of predator screens and oyster spat attraction devices in accordance with the requirements of this PBR will have minimal environmental impact. For these reasons and as discussed in the summary of the aquaculture PBRs, the addition of this new PBR is not a significant change to the uses subject to management, special management areas, authorities and organization or national interest.
7:7-7.2(a)19 Permit-by-rule for placement of shellfish cages within a shellfish lease area	**ADDED 7.2(a)19:** New PBR for placement of shellfish cages within a shellfish lease area	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	This new PBR authorizes the placement of shellfish cages within shellfish lease areas. Shellfish cages are used to store or grow shellfish in a confined area. Cages provide protection from predators and allow the aquaculturist to maintain and harvest shellfish in a more efficient manner. To qualify for this PBR, the cages must be located in a shellfish lease area authorized pursuant to N.J.S.A. 50:1-23. For the same reasons discussed with regard to N.J.A.C. 7:7-7.2(a)18, the removal of cages within five days of the expiration or termination of a shellfish lease or the cessation of the use of shellfish cages, whichever occurs first, is required. To ensure that the cages do not pose a hazard to navigation, a minimum water depth of four feet between the top of the cage and the water surface at mean low water is required. In addition, the cages must be continuously checked and repaired to ensure that the structures are not displaced off of the lease area. This requirement is also consistent with the USACE Nationwide Permit 48 for existing commercial shellfish aquaculture activities. Because the cages are submerged in the water, this PBR requires that the cages must be constructed of non-polluting materials to ensure that no contaminants leach into the water. In addition, the placement of cages shall not prevent the catching and taking of free swimming fish from the tidal waters of the State in any lawful manner in accordance with N.J.S.A. 50:1-33. The placement of shellfish cages in accordance with the requirements of this PBR will have minimal environmental impact. For these reasons and as

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7:7-7.2(a)19 (continued)					discussed in the general summary of the aquaculture PBRs, the addition of this new PBR is not a significant change to the uses subject to management, special management areas, authorities and organization or consideration of the national interest.
7:7-7.2(a)20 Permit-by-rule for construction and/or installation of a pumpout facility and/or pumpout support facilities	**ADDED 7.2(a)20:** New PBR for construction and/or installation of a pumpout facility and/or pumpout support facilities, as well as the connection of a pumpout facility and/or pumpout support facility to an existing sewer line	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	Sewage discharged from recreational and commercial vessels can contribute to the degradation of coastal water quality. The impacts of vessel-generated discharges are of particular concern in coastal embayments where marinas and other boating facilities are located because of the high concentrations of boats, reduced tidal flushing capacity, and general proximity to sensitive natural resources. The National Marine Manufacturers Association reports that New Jersey is currently ranked 26th in the nation based on the number of vessels registered. Using 2008 boater registration figures, approximately 31,884 of New Jersey's recreational vessels have the potential to have a marine sanitation device on board. A marine sanitation device is equipment installed on board a vessel which is designed to receive, treat, or discharge sewage. The Clean Vessel Act Program approved by Congress in 1992 provides assistance to states for the construction, renovation, operation, and maintenance of pumpout stations and dump stations. The United States Fish and Wildlife Service provides overall administration of the Clean Vessel Act Program. In New Jersey, the Department's Division of Fish and Wildlife oversees the Clean Vessel Act Program, but the implementation of the program is through a collaborative effort of many participants from public and private agencies and organizations. To date, there have been 306 applications for funding for the construction, renovation, operation and maintenance of sewage pumpout facilities from marinas, county governments and other interested parties. More than 250 marina pumpout stations and eight pumpout boats in New Jersey waters have been funded since the program's inception in January 1994. It has been estimated that pumpout stations at marinas prevented approximately 500,000 gallons of sewage from entering the water and pumpout boats accounted for an additional 120,000 gallons. However, vessels with portable toilets and holding tanks continue to require more accessible sewage pumpout facilities.

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7:7-7.2(a)20 (continued)					This PBR authorizes the construction and/or installation of a pumpout facility and/or pumpout support facility at a marina, boat yard, boat sales facility, yacht club, restaurant, boat ramp, or other waterfront facility. To qualify under this PBR, the pumpout must discharge to a municipal or regional treatment plant where practicable; to a subsurface sewage disposal system; or to a holding tank, with waste being removed by a licensed septage hauler. Pumpout facilities utilizing one of these three discharge methods were previously authorized through the GP for the construction of support facilities at legally existing and operating marinas at N.J.A.C. 7:7-7.13. The provisions regarding pumpout facilities in the GP for support facilities at legally existing and operating marinas are deleted, enabling these activities to be conducted under a PBR without application to the Department for authorization as is required under a general permit. The Department has determined that the construction or installation of a pumpout facility when constructed or installed in accordance with these criteria will have minimal adverse impacts on the environment and can be governed by a PBR. This PBR also authorizes the installation of a sewer line connecting the pumpout facility or pumpout support facility to an existing on-site sewer line or sewer line located immediately adjacent to the site, provided the connecting sewer line and the area of the connection are located within areas containing non-porous cover such as asphalt paving, porous paving, paver blocks, gravel, crushed shell, crushed stone and any other similar surfaces. This requirement ensures that special areas are not impacted by the connection because the structures will be placed in areas that are already disturbed. If the sewer line is attached to an existing dock, it cannot extend below the stringers of the dock, making it is less likely to be damaged by waves or flooding. In addition, a Treatment Works Approval must be obtained for the construction of the sewer line associated with the pumpout facility when required under the Department's rules governing Treatment Works Approvals at N.J.A.C. 7:7-14A, the New Jersey Pollutant Discharge Elimination System rules. Any connection that does not meet the above requirements is instead regulated under the GP for the construction of support facilities at legally existing and operating marinas, N.J.A.C. 7:7-7.13(b)5.

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7:7-7.2(a)20 (continued)					Activities authorized under this PBR must not have any adverse impact on special areas. For example, if wetlands exist on the site, during the construction of the pumpout facility all safeguards, such as silt fencing to ensure sediment does not run off into the wetland and adversely impact the plant community, must be in place. The construction and/or installation of a pumpout facility and/or pumpout support facility in accordance with the requirements of this PBR will not impact special areas. For these reasons and as discussed in the general summary of the PBRs, the addition of this new PBR is not a significant change to the uses subject to management, special management areas, authorities and organization or consideration of the national interest.
7:7-7.2(a)21 Permit-by-rule for the implementation of a sediment sampling plan for sampling in a water area as part of a dredging or dredged material management activity or as part of a remedial investigation of a contaminated site	**ADDED 7.2(a)21:** New PBR for sediment sampling performed in a water area for the purpose of characterizing the physical and chemical composition of sediments in two instances, when performed as part of a: • dredging or dredged material management activity; or • remedial investigation of a contaminated site	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	This new PBR authorizes sediment sampling performed in a water area for the purpose of characterizing the physical and chemical composition of sediments in two instances: when performed as part of a dredging or dredged material management activity or when performed as part of a remedial investigation of a contaminated site. Typically, sampling cores are collected using a device that pulls a sample of substrate approximately 6 to 8 inches in diameter from a particular sample location. Sample locations are generally spaced 100 feet or more apart, depending on the size of the dredged area or the contaminated site. Once the substrate is removed from the sampling location, the hole naturally fills back in. Thus, the environmental impacts from sediment sampling are temporary in nature and result in minimal disturbance to the substrate during the sampling event. This PBR authorizes sediment sampling in a water area for purposes of characterizing the sediments that may be removed as part of a dredging or dredged material management activity. In this case, the sediment sampling plan must be approved in writing by the Department's Office of Dredging and Sediment Technology. The Department's dredging technical manual, titled "The Management and Regulation of Dredging Activities and Dredged Material Disposal in New Jersey's Tidal Waters," October 1997, provides guidance on dredged material sampling. **NOTE: This document was incorporated into the NJCMP as an enforceable policy in 2004.** This PBR also authorizes sampling of sediments during a remedial

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.2(a)21 (continued)					investigation of a contaminated site. In this case, the sediment sampling plan must be prepared in accordance with the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and must be approved by the Department or certified by a Licensed Site Remediation Professional in accordance with the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS), N.J.A.C. 7:26C. Prior to this rulemaking, in order to conduct sampling for purposes of these types of sediment sampling plans, an applicant was required to obtain authorization under the GP for geotechnical borings at N.J.A.C. 7:7-7.27. Because sampling plans that are part of a dredging or dredged material management activity are reviewed and approved by the Department pursuant to the CZM rules, review of the plans as part of an application for authorization under the geotechnical borings general permit is duplicative. Likewise, because sampling plans that are part of a remedial investigation are reviewed and approved by the Department or certified by a Licensed Site Remediation Professional pursuant to the rules governing site remediation, reviewing the same plans for purposes of obtaining an authorization under the geotechnical borings general permit is unnecessary. Sediment sampling plans performed in accordance with the requirements of this PBR will have minimal temporary impacts to special areas. For these reasons and as discussed in the general summary of the PBRs, the addition of this new PBR is not a significant change to the uses subject to management, special management areas, authorities and organization or consideration of the national interest.

General permits

A general permit (GP) is a permit for activities that the Department has determined have minimal potential for environmental impact, provided the conditions of the GP are met. The fee, Department review and submission requirements for a GP are less than that of an individual permit. The Department has added 5 new GPs and modified two existing GPs. The addition of these GPs and modification of certain existing GPs does not change the jurisdiction of CAFRA or the Waterfront Development Law and merely changes the vehicle under which the activity may be authorized. If a proposed activity is not eligible for authorization under a GP, it may still be eligible for authorization under an individual permit. Further, in accordance with N.J.A.C. 7:7-7.1(c), General Standards for issuing coastal general permits and permits-by-rule, the Department may issue a GP under the Coastal Permit Program rules only if certain conditions are met. Specifically, the Department must determine that the regulated development will cause only minimal adverse environmental impacts when performed separately, will have only minimal cumulative adverse impacts on the environment, and is in keeping with the legislative intent to protect and preserve the coastal area from inappropriate development. It must also determine that the development will be in conformance with the purposes of applicable statutes.

The new GPs and modified GPs satisfy the requirements of N.J.A.C. 7:7-7.1(c). Specifically, the GPs are limited in a manner that will assure that any development occurring pursuant to one of these permits will not have more than minimal adverse impacts on the environment, either separately or cumulatively (when considered in combination with other projects). Using a GP will not compromise the Department's efforts to protect and preserve the coastal areas from inappropriate development, because the proposed GPs contain specific criteria intended to minimize their environmental impacts. Based

on the above and for the reasons discussed under each GP below, the Department does not consider the addition of these 5 GPs and modification of 2 existing GPs a substantial change to uses subject to management, special management areas, authorities and organization or national interest. Each new or modified GP and a description of the activities authorized under that GP follows.					
Legal Citation	**Description of change**	**Enforcement Mechanism**	**Date adopted by State**	**Date Effective in State**	**Significance of Change**
7:7-7.13 Coastal general permit for construction of support facilities at legally existing and operating marinas	**MODIFIED 7.13:** • Add storage buildings to the list of support facilities authorized under this GP; • Reduce the setback requirements for support facilities and restrooms from 100 feet to 15/25 feet depending upon the presence of a bulkhead; • Notify applicants that a Treatment Works Approval (TWA) must be obtained when required by the Department's rules governing TWAs; • Deleted standards for construction of pumpout facilities; and • Deleted requirement that development under this GP must comply with the CZM rules' riparian zone rule	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	Marinas are an essential component of the State's waterfront communities as they provide necessary infrastructure and services to the boating public. Prior to Superstorm Sandy, the marina industry was struggling. The conversion of marinas to waterfront condominiums and other non-water dependent development is a trend that is growing both on a national and State level. The Marine Trades Association of New Jersey (MTA/NJ) has been tracking the loss of marine facilities within the State. According to the MTA/NJ, as of 2011, the marina industry has lost over 500 slips and seventeen marina facilities have been closed or sold for development. This is supported by the Department's experience in reviewing development proposals to convert existing water dependent uses to housing. The services lost from the conversion of these marinas include boat storage, repair and maintenance facilities, fuel sales, pumpout facilities and retail sales of boating and related supplies. Those struggles were exacerbated by Superstorm Sandy's impact. As noted previously, damage to facilities, including buildings, property and docks, exceeded $35.5 million, while total losses of inventory, equipment, supplies, buildings, property, and docks exceeded $54.6 million. Using the information provided from the surveys submitted, the MTA/NJ estimates that, including anticipated damages to other marinas that did not complete the survey, uninsured losses are in excess of $100 million. In an effort to preserve existing marinas and make them economically viable, as well as facilitate the rebuilding of marinas damaged by the storm while assuring that important environmental concerns continue to be addressed, the GP for the construction of marina support facilities is modified as described below. Failure to take action to help facilitate rebuilding and enhancing this industry in light of the economic impacts caused by Superstorm Sandy may result in this industry not being able to recover. N.J.A.C. 7:7-7.13(b)1 sets forth the standards for the construction of boat rack systems/marina support buildings including, but not limited to, showrooms, maintenance/repair, marine supplies, bait/tackle, boat sales, dock masters office buildings, and sheds. Storage buildings are added to this list in response to comments received through the marina stakeholder group. These

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7:7-7.13 (continued)					facilities, constructed in accordance with the requirements of this section, do not pose any impacts different than the other structures allowed under this paragraph. In addition, this subsection is modified to reduce the setback requirement for buildings at N.J.A.C. 7:7-7.13(b)1ii, from 100 feet to 15 feet from a shore protection structure and 25 feet from the mean high water line where no shore protection structures are present. These setback requirements are consistent with the setback requirements for other structures from a shore protection structure such as single family homes or duplexes, and riparian zone setbacks (see N.J.A.C. 7:7E-7.2(e)11 and N.J.A.C. 7:7E-3.26). The 100-foot setback was intended to preserve that portion of the site having direct water access for water dependent activities. Because a marina is a water dependent activity, it is appropriate to allow marina related support facilities to be located within this area. The setback was not intended to address storm or flooding issues. Any proposed development under this GP must also comply with current construction codes which will address flood resistant construction techniques. The Department also included the same setback requirement for restrooms at N.J.A.C. 7:7-7.13(b)2iii. As discussed in the summary of N.J.A.C. 7:7-1.3, the Department added a definition of "pumpout facility" to the rules. Consistent with this change, the Department has modified N.J.A.C. 7:7-7.13(b)1vi, which requires that marinas with 25 or more vessels or one live aboard vessel to provide for pumpout facilities, to use the newly defined term. As discussed at N.J.A.C. 7:7-7.2(a)20 above, the provisions regarding pumpout facilities at N.J.A.C. 7:7-7.13(a)3 are deleted, enabling these activities to be conducted under a PBR without application to the Department for authorization as is required under a GP. For clarity, N.J.A.C. 7:7-7.13(b)3 (recodified from N.J.A.C. 7:7-7.13(b)4) is amended to specify that what had been identified simply as "pumpouts" includes both pumpout facilities and pumpout support facilities. N.J.A.C. 7:7-7.13(b)3iv, which addresses the construction of new sewer lines to connect to restrooms, pumpout facilities and/or pumpout support facilities is amended to provide that a Treatment Works Approval for the sewer line must be obtained only when required under the Department rules governing Treatment Works Approvals at N.J.A.C. 7:7-14A.

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7:7-7.13 (continued)					N.J.A.C. 7:7-7.13(c)5, formerly required that the proposed development comply with the CZM rules' flood hazard area and riparian zone rules, N.J.A.C. 7:7E-3.25 and 3.26, respectively. Existing marinas do not have a functional riparian buffer since the area along the waterway is already disturbed. Therefore, compliance with the CZM rules' riparian zone rule, N.J.A.C. 7:7E-3.26, is not required. Accordingly, reference to the riparian zone rule is deleted. The GP is limited in a manner that will assure that any development occurring pursuant to this GP will not have more than minimal adverse impacts on the environment, either separately or cumulatively (when considered in combination with other projects). Specifically, this GP contains provisions protective of special areas. For example support facilities must be located on existing cleared and maintained areas of the site, must be located a minimum of 50 feet from any wetlands, and meet the requirements of flood hazard area rule. For these reasons and as discussed in the general summary of the GPs, the changes to this GP are not a significant change to the uses subject to management, special management areas, authorities and organization or consideration of the national interest.
7:7-7.29 Coastal general permit for habitat creation, restoration, enhancement, and living shoreline activities	**ADDED 7.29:** New GP for habitat creation, restoration, enhancement, and living shorelines	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 17, 2006 Modified November 6, 2007 and April 16, 2013	April 17, 2006 Modified November 6, 2007 and April 16, 2013	When originally adopted in April 2006, this GP authorized habitat creation and enhancement activities. At that time, this GP was designed to allow for habitat creation and enhancement activities necessary to implement a for the restoration, creation or enhancement of the habitat and water quality functions and values of wetlands, wetland buffers and open water areas, which is sponsored by a Federal of State agency or other entity. As part of this rulemaking, the Department has modified the scope of this GP to include the establishment of living shorelines. Tidal wetlands buffer uplands from chronic and episodic erosion caused by wave action, as well as provide habitat for aquatic flora and fauna. Significant amounts of wetlands have been lost as a result of erosion, and this issue was exasperated by Superstorm Sandy. Shorelines lost due to erosion eliminate intertidal habitat, reduce the amount of sandy beach, and decrease the amount of organic matter which is necessary to maintain tidal waters. The result is the degradation of the coastal environment through increases in erosion and impacts to natural habitats, such as tidal wetlands and spawning grounds.

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7:7-7.29 (continued)					New Jersey is looking to natural solutions, such as the creation of living shorelines, to address erosion as an alternative that adds diversity to other shore protection measures. The benefits of living shorelines to property owners and the environment include trapping and retaining land runoff containing nutrients and pollutants; providing flood protection for adjacent and upland properties; providing aesthetic value, enhanced views, a sense of place, and privacy to the property owner; preserving, creating or maintaining habitat for aquatic flora and fauna; restoring critical feeding and nursery habitat for aquatic flora and fauna; providing wildlife access to the shoreline for nesting species of birds and terrapins; increasing carbon sequestering marshland vegetation; and, in low energy environments, living shorelines are less costly then structural stabilization. Living shoreline activities are becoming a more common means of shoreline stabilization. Assessments by other Atlantic Coastal states show living shorelines remained intact and the upland development adjacent to them also fared better during Superstorm Sandy. Living shorelines are a means to building a more resilient shoreline. Through the Department's stakeholder process, the concept of living shorelines, and the addition of a GP to facilitate research associated with the creation of living shorelines, was supported by all stakeholder groups. Based on stakeholder interest, a living shoreline subcommittee was formed. The subcommittee, comprised of representatives of the Department, Federal agencies, Monmouth University, environmental groups and local government, met on May 11, 2011 and October 3, 2011 to discuss the incorporation of the establishment of living shorelines as an activity subject to the GP for habitat creation and enhancement at N.J.A.C. 7:7-7.29 and the standards that would apply to such activities. In response to the need for research specific to New Jersey and stakeholder support, the GP for habitat creation and enhancement at N.J.A.C. 7:7-7.29 was modified to include living shoreline activities conducted by specific State and Federal agencies, as well as living shoreline research projects conducted by a college or university, as described further below. The Department reviewed the living shoreline programs of other Atlantic coast states in developing the standards for living shoreline activities. To facilitate the addition of living shorelines to this GP, the term "restoration" was added throughout the GP as living shoreline projects are more

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.29 (continued)					appropriately considered restoration projects than creation or enhancement projects. N.J.A.C. 7:7-7.29(a) provides that this GP authorizes habitat creation, restoration, enhancement, and living shoreline activities necessary to implement a plan for the restoration, creation, enhancement, or protection of the habitat, water quality functions and values of wetlands, wetland buffers and open water areas which is sponsored by a Federal or state agency or other entity identified in subsection (b). A "sponsor" is an entity that endorses the proposed activities in writing, meaning that the entity has reviewed the project and concurs that the proposed project is suitable for its intended purpose. "Sponsor" does not mean that the entity is funding or partially funding the project. N.J.A.C. 7:7-7.29(b) identifies the types of habitat creation, restoration and enhancement plans that qualify for authorization under this GP. N.J.A.C. 7:7-7.29(c) identifies the activities that are authorized under this GP. Each of these activities has been used for habitat creation, restoration, or enhancement projects throughout the State. For example, altering hydrology and regrading are common tools used for wetland mitigation. Breaching a structure to allow water into an area is commonly used for wetland mitigation in tidal areas. Providing nesting boxes or structures and altering vegetation are habitat enhancement methods used throughout the State's fish and wildlife management areas. To be eligible for authorization under this GP, N.J.A.C. 7:7-7.29(d) requires an applicant to demonstrate that the proposed project plan complies with the intent of the GP. Specifically, the proposed project is required to be part of a plan for the restoration, creation or enhancement of the habitat and water quality functions and values of wetlands wetland buffers, and/or State open waters. This requirement aids in the creation of an overall habitat management plan. The activities authorized by this GP must be consistent with the requirements of the Wetlands Act of 1970, the Waterfront Development Law, CAFRA and the CZM rules. This criterion provides consistency with the statutes applicable to activities authorized under this GP. The project must also improve or maintain the values and functions of the ecosystem. It must also have a reasonable likelihood of success, or if performed by a college or university, will advance the level of knowledge

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7:7-7.29 (continued)					gained regarding living shorelines in the State. This provision is appropriate because, with respect to research, useful knowledge is gained from the process of experimentation as well as from the results. The standards specific to habitat creation, restoration and enhancement activities are set forth at N.J.A.C. 7:7-7.29(e). N.J.A.C. 7:7-7.29(e)1 requires that authorization under this GP will be issued only if the Department finds that there are no practicable alternatives that would involve less or no disturbance or destruction of special areas. N.J.A.C. 7:7-7.29(e)2 requires that the activities be conducted in such a way as to minimize impacts to special areas. N.J.A.C. 7:7-7.29(e)3 requires that the activities not reduce the total amount of special areas on a site. However, the Department may approve a decrease in total special area if it is determined that there are sufficient environmental benefits to outweigh the negative environmental impacts of the decrease. N.J.A.C. 7:7-7.29(e)4 which relates to dam removal, contains requirements that are necessary to ensure compliance with the Dam Safety regulations, N.J.A.C. 7:20 in order to ensure consistency with applicable statutes. N.J.A.C. 7:7-7.29(f) sets forth standards specific to living shoreline activities. Based on the recommendations of the living shoreline subcommittee, N.J.A.C. 7:7-7.29(f)1 requires that the size of a living shoreline project be limited to no more than one acre, unless the applicant is a Federal or State agency that demonstrates that a larger project size is necessary to satisfy the goals of the project. In this case, the Department has determined that a Federal or State agency has the expertise and staff to undertake a larger scale project. Often, larger scale projects have undergone an extensive environmental review process, including in some cases, the development of an Environmental Impact Statement. In addition, this process often involves a public comment period. The Department recognizes that a living shoreline project, particularly a project that is proposing to restore a habitat to pre-erosion conditions, has the potential to change the existing conditions or habitat on a site. Therefore, similar to the standard for habitat creation, enhancement or restoration at N.J.A.C. 7:7-7.29(e)2, new N.J.A.C. 7:7-7.29(f)2 requires that the living shoreline activities disturb the minimum amount of special areas necessary to successfully implement the project plan. The Department may approve a reduction in the size of a particular special area in order to allow an increase in a different special area if it is determined that there are sufficient environmental benefits to outweigh any negative environmental impacts associated with the reduction. For example, the Department may approve a reduction in the amount of

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7:7-7.29 (continued)					submerged vegetation habitat for an increase in coastal wetlands habitat in order to reduce the loss of shoreline. The short term loss of some submerged vegetation habitat may be acceptable where an applicant can demonstrate that the active erosion is having a detrimental impact on the submerged vegetation habitat such that, over time, the habitat may be lost and that stabilizing the shoreline will eventually lead to a healthier vegetated community. N.J.A.C. 7:7-7.29(g) requires public access be provided in accordance with the CZM rules. N.J.A.C. 7:7-7.29(h) provides that this GP does not authorize an activity unless its sole purpose is habitat creation, restoration, enhancement, or a living shoreline. The application requirements that apply to all GP applications are found at N.J.A.C. 7:7-7.3. In addition, each GP contains information requirements specific to that GP. These requirements are based on the nature of the activity to which the GP applies and the conditions of the GP. Accordingly, N.J.A.C. 7:7-7.29(i) identifies the additional information required as part of an application for authorization under this GP. Site plans must be submitted showing: (1) the mean high and spring high water lines; (2) the upper and lower limits of wetlands, wetland buffers, beaches, dunes and coastal bluffs; (3) limits of all intertidal and subtidal shallow areas, submerged vegetation, and shellfish habitat areas; (4) existing features at the site and on adjacent waterfront sites; (5)existing roads and utilities adjacent to the site; and (6) the limits and depth of all proposed excavation, grading or fill. The information in (1) through (3) above is necessary to fully assess the proposed activity's impact to areas of concern such as wetlands, beaches, dunes and shellfish habitat. The information at (4) and (5) that existing development and roads and utilities be shown on plans are necessary to assess possible impacts to existing development and to avoid an possible interruption of infrastructure service. As in (1) through (3) above, the information at (6) is necessary to fully assess possible environmental impacts caused by the proposed activity to such resources as soils and water table or the exposure of acid producing soils. In addition, for living shoreline projects that require the placement of fill, the footprint of the shoreline as it appeared on the applicable Tidelands Map must be provided to demonstrate compliance with N.J.A.C. 7:7-7.29(f)3. Lastly, a compliance statement is required, wherein the applicant

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.29 (continued)					demonstrates compliance with the criteria of the GP. The addition of this GP does not change the jurisdiction of CAFRA or the Waterfront Development Law. The addition of this permit merely changes the vehicle under which habitat creation, restoration, enhancement, and living shorelines activities may be authorized. If a proposed activity is not eligible for a GP it may still be eligible for an individual permit. Further, in accordance with N.J.A.C. 7:7-7.1(c)1 and 2, General Standards for issuing coastal general permits and permits-by-rule, the Department may issue a coastal general permit under the Coastal Permit Program rules only if certain conditions are met. Specifically, the Department must determine that the regulated development will cause only minimal adverse environmental impacts when performed separately, will have only minimal cumulative adverse impacts on the environment, and is in keeping with the legislative intent to protect and preserve the coastal area from inappropriate development. It must also determine that the development will be in conformance with the purposes of applicable statutes. This GP satisfies the requirements contained in N.J.A.C. 7:7-7.1(c).This GP is limited in a manner that will assure that any development occurring under this GP will not have more than minimal adverse impacts on the environment, either separately or cumulatively (when considered in combination with other projects). As discussed above, authorization under this GP can only be issued where impacts to special areas are minimized. Using a GP will not compromise the Department's efforts to protect and preserve the coastal areas from inappropriate development, because this GP contains specific criteria intended to minimize environmental impacts. Based on the above, the Department does not consider the addition of this GP a substantial change to uses subject to management, special management areas, authorities and organization or consideration of the national interest.
New GPs for dredging activities as a result of a storm event in which the Governor declared a State of Emergency Significant amounts of debris, sand, and other materials were deposited into New Jersey's waterways as a result of Superstorm Sandy. To facilitate the removal of these materials, 3 new GPs are added: GP for dredging of sand from a man-made lagoon deposited as a result of a storm event for which the Governor declared a State of Emergency, N.J.A.C. 7:7-7.32; GP for the dredging of material from a waterway at a residential or commercial development deposited as a result of failure of a bulkhead as a result of a storm for which the Governor declared a State of Emergency, N.J.A.C. 7:7-7.33; and GP for dredging and management of material from a marina that was deposited as a result of a storm event for which the Governor declared a State of Emergency, N.J.A.C. 7:7-7.34. As explained below, the Department has determined that the activities authorized under these GPs will have minimal environmental impacts, and that any impacts will further be limited through the use of best management practices.					

The new dredging GPs address a unique circumstance created as a consequence of a storm event in which the Governor has declared a State of Emergency. The Governor will declare a State of Emergency to provide for the health, safety, and welfare of the people of New Jersey and to aid in the prevention of damage to and the destruction of property during any emergency. A State of Emergency represents an imminent hazard threatening the health, safety and resources of the residents of one or more municipalities in the State. Most recently, Governor Christie declared a State of Emergency in advance of Superstorm Sandy since the storm had the potential to bring heavy rains, high winds, storm surges, and stream and river flooding that would threaten homes and other structures, and endanger lives in the State. The storm did cause a storm surge and flooding that deposited sand from the ocean to the tidal waterways of the State as well as other materials and debris. This deposition of material and debris created a significant hazard to users of the State's waterways. These new GPs will only apply in situations such as Superstorm Sandy, where the Governor declares a State of Emergency. Further, an application that meets the requirements of N.J.A.C. 7:7-7.3 for authorization under one of these GPs must be received by the Department no later than 24 months after the date of the declaration of the Emergency. The Department has determined that this 24-month period provides sufficient time to properly identify the deposited materials and prepare and submit an application to the Department.

As discussed previously, these dredging GPs are intended to facilitate the dredging of material that was deposited as a result of a storm event, the magnitude of which warranted the Governor to declare a State of Emergency. In some instances, special areas, such as shellfish habitat and submerged vegetation habitat, may be present in the area where the material was deposited. In most circumstances, new dredging in these areas is discouraged or prohibited. However, in the circumstances of a declared State of Emergency, the removal of the material deposited as a result of the storm will assist in the recovery of these special areas by restoring pre-storm elevations and sediment structure. Dredging below pre-storm elevations is not authorized under these general permits. In an effort to balance the removal of the material from New Jersey's waterways and the restoration of special areas, the Department has determined that dredging within special areas in the limited circumstances of a declared State of Emergency is appropriate.

These GPs also provide that authorization of dredging will not be considered in determining whether a future dredging activity constitutes maintenance dredging, as the Department considers this activity restoration, as described above. Maintenance dredging is the removal of accumulated sediment from previously authorized and legally dredged areas and is conditionally acceptable within special areas. However, new dredging is discouraged or prohibited because the new dredging activities would result in the destruction of special areas.

The addition of these GPs does not change the jurisdiction of CAFRA or the Waterfront Development Law; it merely changes the vehicle under which certain dredging activities may be authorized. If a proposed dredging activity is not eligible for GP, it still may be eligible for an individual permit.

In accordance with N.J.A.C. 7:7-7.1(c)1 and 2, General Standards for issuing coastal general permits and permits-by-rule, the Department may issue a GP under the Coastal Permit Program rules only if certain conditions are met. Specifically, the Department must determine that the regulated development or activity will cause only minimal adverse environmental impacts when performed separately, will have only minimal cumulative adverse impacts on the environment, and is in keeping with the legislative intent to protect and preserve the coastal area from inappropriate development. It must also determine that the development will be in conformance with the purposes of applicable statutes.

These dredging GPs satisfy the requirements at N.J.A.C. 7:7-7.1(c). Specifically, as discussed above, these GPs are limited in a manner that will assure that the dredging activities performed under these GPs will not have more than minimal adverse impacts on the environment, either separately or cumulatively (when considered in combination with other projects).

Using a GP will not compromise the Department's efforts to protect and preserve the coastal areas from inappropriate development, because this GP contains specific criteria intended to minimize environmental impacts. Based on the above, the Department does not consider the addition of these GPs a substantial change to uses subject to management, special management areas, authorities and organization or national interest.

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.32 Coastal general permit for the dredging of sand from a man-made lagoon deposited as a result of a storm event for which the Governor declared a State of Emergency	**ADDED 7.32:** New GP for the dredging of sand from a man-made lagoon deposited as a result of a storm event for which the Governor declared a State of Emergency	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	The requirements of this GP are similar to those of the GP for minor maintenance dredging of man-made lagoons at N.J.A.C. 7:7-7.20. N.J.A.C. 7:7-7.32(a) specifies that the material to be dredged must be sand. Sand, for the purposes of this GP, is a material consisting of 90 percent or greater of particles by weight retained on a 0.0625 mm sieve. The Department has determined that it is not appropriate to require testing on dredged material comprised of sand. Sand particles do not readily bind contaminants, and sandy sediment is also very low in organic carbon (to which contaminants tend to bind). The Department has previously conducted an analysis of the available sediment data in Region 2 (Atlantic Ocean coast from Sandy Hook to the western entrance of the Cape May Canal, including the Navesink and Shrewsbury Rivers, Barnegat Bay and associated tributaries, Mullica River, Great Egg Harbor River, and Cape May Canal) and Region 3 (Delaware Bay, tidal Delaware River, and associated tributaries), as defined in the Departments' dredging technical manual titled, "The Management and Regulation of Dredging Activities and Dredged Material in New Jersey's Tidal Waters," October 1997 and concluded that there is a very low probability that dredged material comprised of sand would be contaminated at levels of environmental or public health concern. To demonstrate that the material to be dredged is sand, a grain size analysis of the material is required pursuant to N.J.A.C. 7:7-7.32(c)2. The Department's dredging technical referenced above provides guidance on performing a grain size analysis. **NOTE: This document was incorporated into the NJCMP as an enforceable policy in 2004.** This GP is intended to return the area impacted by the storm to pre-storm conditions. Therefore, N.J.A.C. 7:7-7.32(a)1 and 2 require, respectively, that the volume of sand to be dredged be limited to that which was deposited as a result of the storm and that the area to be dredged be limited to that where the sand was deposited as a result of the storm event. Pre-and post-storm bathymetry of the area to be dredged, bathymetry from previous dredging operations, as well as aerial photographs can be used to assist in determining the appropriate area to be dredged and the volume of sand to be dredged. N.J.A.C. 7:7-7.32(a)3 requires that the sand be placed on an upland site, dewatered as necessary within a temporary dewatering area, and capped with a six-inch layer of clean fill and stabilized. This provision ensures that the

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.32 (continued)					placement of the sand and any dewatering of the material will not adversely affect special areas or surface water quality, and that the erosion of the dredged material to the adjacent waterway is minimized. The Department encourages the beneficial use of this material. It is the long-standing policy of the State to treat dredged material as a resource and to beneficially use dredged material in appropriate applications rather than relying on disposal of dredged material in confined disposal facilities. N.J.A.C. 7:7-7.32(a)4 requires a 25 foot buffer be provided from any wetlands to the nearest edge of the area to be dredged. This requirement will protect the wetlands and prevent its sloughing. N.J.A.C. 7:7-7.32(a)5 requires that any debris contained within the sand be removed and disposed of properly. Due to the intensity of a storm event such as Superstorm Sandy, remnants of buildings, houses and other structures, such as pieces of wood, nails and glass, may be present in the sand. To protect human health, prior to the placement of this material at an upland site, any debris contained within the material must be removed and disposed of properly. For the reasons discussed in the general summary of the new dredging GPs relating to dredging, N.J.A.C. 7:7-7.32(b) requires that an application that meets the requirements of N.J.A.C. 7:7E-7.3 for authorization under this GP must be received by the Department no later than 24 months after the date of declaration of the State of Emergency. For the reasons discussed in the general summary above regarding the 3 new dredging GPs, N.J.A.C. 7:7-7.32(c) provides that an authorization of dredging activities under this GP shall not be considered in determining whether a future dredging activity at the same site constitutes maintenance dredging as defined at N.J.A.C. 7:7E-4.6. N.J.A.C. 7:7-7.32(d) identifies specific information that must be included as part of an application for authorization under this GP. N.J.A.C. 7:7-7.32(d)1 requires one copy of a site plan(s) showing the mean high and mean low water lines of the tidal waters at the site; the upper and lower limits of wetlands on site and on adjacent lagoon front properties; the pre- and post-storm bathymetry of the area to be dredged (if available); the method of dredging; the location of the dredged material placement site; and the method

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.32 (continued)					of stabilization of the dredged material. This information will ensure that the proposed dredging complies with the requirements of this GP. As discussed previously, N.J.A.C. 7:7-7.32(d)2 requires the submission of a grain size analysis to demonstrate that the material to be dredged is sand. N.J.A.C. 7:7-7.32(d)3 requires the submission of a compliance statement demonstrating how the proposed dredging complies with the requirements of this GP. Based on the above, the Department does not consider the addition of this GP a substantial change to uses subject to management, special management areas, authorities and organization or consideration of the national interest.
7:7-7.33 Coastal general permit for the dredging of material from a waterway at a residential or commercial development deposited as a result of the failure of a bulkhead as a result of a storm event for which the Governor declared a State of Emergency	**ADDED 7.33:** New GP for the dredging of sand from a man-made lagoon deposited as a result of a storm event for which the Governor declared a State of Emergency	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	Storm surge can cause existing bulkheads to fail and the material located landward of the bulkhead to be deposited into the adjacent waterway. This GP allows for the removal of this material from the waterway and its placement on the upland portion of the site from which it came. N.J.A.C. 7:7-7.33(a)1 and 2 require, respectively, that the volume of material to be dredged be limited to that which resulted from the failure of the bulkhead and that the area to be dredged is limited to that where the sand was deposited as a result of the failure of the bulkhead. Similar to the new GP at N.J.A.C. 7:7-7.32 for dredging sand from a lagoon after a storm event, existing and pre-storm bathymetry of the area to be dredged, bathymetry from any previous dredging operations, as well as aerial photographs can be used to assist in determining the area to be dredged and the volume of dredging. In some instances, special areas such as shellfish habitat and submerged vegetation habitat may be present in the area where the material has been deposited. By limiting the volume of material and area to be dredged to the amount that was deposited and to the location at which it was deposited as a result of the bulkhead failure, pre-storm elevations and sediment structure will be restored, thereby assisting in the recovery of these habitats. N.J.A.C. 7:7-7.33(a)3 requires that the dredged material be placed on the upland portion of the lot, dewatered as necessary within a temporary dewatering area, and capped with a six-inch layer of clean fill and stabilized. This provision ensures that the material is returned to the lot from which it came and that the placement of this material will not adversely affect special areas and surface water quality. Capping and stabilization of the material is required to prevent erosion of the material into the waterway.

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.33 (continued)					For the reasons discussed at N.J.A.C. 7:7-7.32(a)4 and 5 above, N.J.A.C. 7:7-7.33(a)4 and 5 require, respectively, a 25 foot buffer from any wetlands to the nearest edge of the area to be dredged and that any debris contained within the dredged material be removed and disposed of properly. For the reasons discussed in the general summary of the new GPs relating to dredging, N.J.A.C. 7:7-7.33(b) requires that an application that meets the requirements of N.J.A.C. 7:7E-7.3 for authorization under this GP must be received by the Department no later than 24 months after the date of declaration of the State of Emergency. For the reasons discussed in the general summary above regarding the 3 new dredging GPs, N.J.A.C. 7:7-7.33(c) provides that an authorization of dredging activities under this GP shall not be considered in determining whether a future dredging activity at the same site constitutes maintenance dredging as defined at N.J.A.C. 7:7E-4.6. N.J.A.C. 7:7-7.33(d) identifies specific information that must be included as part of an application for authorization under this GP. N.J.A.C. 7:7-7.33(d)1 requires one copy of a site plan(s) showing: the mean high and mean low water lines of the tidal waters at the site; the upper and lower limits of wetlands on site and on adjacent properties; the alignment of the bulkhead that failed; the pre- and post-storm bathymetry of the area to be dredged (if available); the method of dredging; the location of the dredged material placement site; and the method of stabilization of the dredged material. This information will ensure that the proposed dredging complies with the requirements of this general permit. N.J.A.C. 7:7-7.33(d)2 requires the submission of a compliance statement demonstrating how the proposed dredging complies with the requirement of this GP. Based on the above, the Department does not consider the addition of this GP a substantial change to uses subject to management, special management areas, authorities and organization or consideration of the national interest.

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.34 Coastal general permit for dredging and dredged material management of material from a marina that was deposited as a result of a storm event for which the Governor declared a State of Emergency	**ADDED 7.34:** New GP for dredging and dredged material management of material from a marina that was deposited as a result of a storm event for which the Governor declared a State of Emergency	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	Marinas are an integral component of New Jersey's recreational boating industry and require access to tidal waters. The effects of storm events such as Superstorm Sandy can be devastating to this industry. To assist marina owners in restoring access to slips, this new GP authorizes the dredging of material deposited within the marina and the subsequent management of such material. N.J.A.C. 7:7-7.34(a) provides that dredging and management of the material from a marina basin is authorized under this GP where the material is sand, or where the material is not sand, it is temporarily disposed of in an existing upland confined disposal facility located on the marina property until a final placement site is determined in accordance with subsection (e). Sand, for purposes of this GP, is a material consisting of 90 percent or greater of particles by weight retained on a 0.0625 mm sieve. As discussed at N.J.A.C. 7:7-7.32(a) above, contaminants do not readily bind to sand and therefore additional testing of the material prior to its disposal is not required. However, where the material is not sand, there is a higher probability of the material being contaminated at levels of concern. Due to the unique circumstances resulting from a storm event in which a State of Emergency is declared by the Governor, and the need to expeditiously remove the material from the marina, the Department is not requiring sampling of the material prior to its removal. Because the Department is not requiring bulk chemistry, elutriate, modified elutriate and biological testing of the material prior to its removal, the Department is requiring that the dredged material be disposed of in an existing upland confined disposal facility on the marina site prior to its final placement. By requiring the material to be disposed of on site in an existing confined disposal facility, risk to public health and safety is low and impacts to the environment and adjacent waterway minimized. N.J.A.C. 7:7-7.34(b) sets forth the requirements for the dredging activities. N.J.A.C. 7:7-7.34(b)1 and 2, respectively, require that the depth in the area after the proposed dredging activity is completed not exceed the depth prior to the storm event and that the area to be dredged be limited to the area in which the material was deposited as a result of the storm event. These requirements ensure that the dredging activity is limited in scope to the areas and depths affected by the storm. N.J.A.C. 7:7-7.34(b)3 addresses impacts to wetlands. A 25 foot buffer must

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.34 (continued)					be provided from any wetlands to the nearest edge of the area to be dredged to protect the wetlands and prevent their sloughing. However, where the area to be dredged is within an existing maintained navigation channel or marina basin, the buffer may be reduced to allow dredging within the limits of the existing navigation channel or basin. For the reasons discussed in the general summary of the new GPs relating to dredging, N.J.A.C. 7:7-7.34(c) requires that an application that meets the requirements of N.J.A.C. 7:7E-7.3 for authorization under this GP must be received by the Department no later than 24 months after the date of declaration of the State of Emergency. N.J.A.C. 7:7-7.34(d) and (e) address the management of the dredged material. N.J.A.C. 7:7-7.34(c) provides that if the dredged material is sand, it must be placed at either an on-site or off-site location that has been approved by the Department. The Department encourages the beneficial use of dredged material. N.J.A.C. 7:7-7.34(e) requires that dredged material that is not sand be disposed of in an existing upland confined disposal facility (CDF) located on the marina property, until the appropriate final placement can be determined. The Department must approve the final placement site for the dredged material. Under normal circumstances, the Department would require testing of the proposed dredged material from a marina to determine the appropriate placement site. However, in recognition of the unique circumstances in which this dredging may occur (removal of material resulting from a storm event in which a State of Emergency is declared by the Governor), and the need to expeditiously remove the material, the Department is not requiring sampling of the material prior to its removal. The upland CDF located on-site must be large enough to contain and dewater the dredged material, not be located in any wetlands or wetland buffers, and be operated and maintained in a manner to minimize the discharge of dredged material into the adjacent surface waters and wetlands. These requirements will ensure that the disposal facility and its operation will not adversely affect special areas and surface water quality. For the reasons discussed in the general summary above regarding the 3 new dredging GPs, N.J.A.C. 7:7-7.34(f) provides that an authorization of dredging activities under this GP shall not be considered in determining whether a future dredging activity at the same site constitutes maintenance dredging as

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.34 (continued)					defined at N.J.A.C. 7:7E-4.6. N.J.A.C. 7:7-7.34(g) identifies specific information that must be included as part of an application for authorization under this GP. N.J.A.C. 7:7-7.34(g)1 requires one copy of a site plan(s) showing the mean high, mean low and spring high water lines of the tidal waters at the site; the upper and lower limits of wetlands on site and on adjacent properties; the pre- and post-storm bathymetry of the area to be dredged (if available); the method of dredging; the location and areal dimensions of the existing on-site disposal area, including inflow and weir discharge points; and cross-sections showing the heights of the berms of the existing disposal area. This information will ensure that the proposed dredging complies with the requirements of this GP. N.J.A.C. 7:7-7.34(g)2 requires the submission of the results of a grain size analysis categorizing the material to be dredged. This information will determine the disposal method. N.J.A.C. 7:7-7.34(g)3 requires the submission of calculations demonstrating the available capacity of the upland CDF located on-site. This will ensure that the CDF has adequate capacity to receive the dredged material. N.J.A.C. 7:7-7.34(g)4 requires the submission of a compliance statement demonstrating how the proposed dredging complies with the requirement of this GP. Based on the above, the Department does not consider the addition of this GP a substantial change to uses subject to management, special management areas, authorities and organization or consideration of the national interest.

NEW GPS FOR SHELLFISH AQUACULUTRE ACTIVITIES

To assist in the restoration of the shellfish aquaculture industry and encourage and facilitate new and continued shellfish aquaculture activities, the Department added 2 new GPs for shellfish aquaculture. These new GPs are limited to shellfish aquaculture activities, because as discussed in the general summary of the new PBRS for shellfish aquaculture above, shellfish aquaculture is the form of aquaculture most prevalent in New Jersey. Other types of aquaculture activities, while not subject to authorization under a GP, may be permitted under an individual permit.

The changes related to shellfish aquaculture provide a streamlined and systematic permitting structure for the shellfish aquaculture industry in order for the industry to develop and operate at an economically sustainable level while protecting environmental quality and reducing user group conflicts. Further, the GPs and new rules will improve interagency coordination as well as the management of shellfish aquaculture activities in the State. An efficient permitting system combined with effective environmental oversight of shellfish aquaculture activities is critical to protect public welfare and resources and to ensure the continued viability of shellfish aquaculture operations.

The addition of these GPs does not change the jurisdiction of CAFRA or the Waterfront Development Law; it merely changes the vehicle under which certain shellfish aquaculture activities may be authorized. If a proposed activity is not eligible for a GP, it still may be eligible for an individual permit.

In accordance with N.J.A.C. 7:7-7.1(c)1 and 2, General Standards for issuing coastal general permits and permits-by-rule, the Department may issue a GP under the Coastal Permit Program rules only if certain conditions are met. Specifically, the Department must determine that the regulated development or activity will cause only minimal adverse environmental impacts when performed separately, will have only minimal cumulative adverse impacts on the environment, and is in keeping with the legislative intent to protect and preserve the coastal area from inappropriate development. It must also determine that the development will be in conformance with the purposes of applicable statutes. These shellfish aquaculture GPs satisfy the requirements at N.J.A.C. 7:7-7.1(c). Specifically, as discussed above, these GPs are limited in a manner that will assure that the dredging activities performed under these GPs will not have more than minimal adverse impacts on the environment, either separately or cumulatively (when considered in combination with other projects).

Using a GP will not compromise the Department's efforts to protect and preserve the coastal areas from inappropriate development, because this GP contains specific criteria intended to minimize environmental impacts. Based on the above, the Department does not consider the addition of this GP a substantial change to uses subject to management, special management areas, authorities and organization or national interest. A description of the activities authorized under the GPs follows.

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.35 Coastal general permit for commercial aquaculture activities	**ADDED 7.35:** New GP for construction and/or placement and maintenance of commercial aquaculture equipment including floating upwellers, shellfish rafts, racks and bags, lantern nets, and cages	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	This new GP is added for the construction and/or placement and maintenance of aquaculture equipment including floating upwellers, shellfish rafts, racks and bags, lantern nets, and cages. Floating upweller systems are aquaculture systems that float on the water and use the tidal flow to move water through the system to provide necessary elements for the rearing of juvenile shellfish. These systems are relatively small in size. Shellfish rafts are floating aquaculture structures that are used for the rearing of shellfish (typically oysters). The shellfish rafts provide protection from predators and are typically used in "deep" water shellfish leases so they can be easily accessed and maintained more efficiently. Rack and bag systems involve a fixed structure on the bottom of the waterway which supports mesh bags filled with oysters. These structures are typically set on intertidal/subtidal flats and can be accessed and maintained by foot. The structure also secures the shellfish bags in place. Lantern nets are net-like enclosures that are hung from a float, buoy, or long-line suspended in the water column in deep water. These nets are similar to floating rafts in that they are not designed to rest on the bottom. Cages are structures used to store or grow shellfish in a confined area that are placed on the bottom. Cages can be placed on a shallow or deep-water shellfish lease. In contrast to the PBR at N.J.A.C. 7:7-7.2(a)19 for the placement of shellfish cages within a shellfish lease, this GP allows cages to be placed on leases without depth clearance conditions.

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.35 (continued)					All structures listed above will have no lasting effect on the environment as they are temporary and made of non-polluting materials. These structures will also provide habitat and structure for other marine organisms such as juvenile finfish and crabs. These shellfish grow out structures are designed to protect the shellfish product from predators and allow the aquaculturist to maintain and harvest their shellfish product in a more efficient manner. N.J.A.C. 7:7-7.35(a) sets forth the conditions that must be met for these structures to be approvable under this GP. For the same reasons discussed in the summary of N.J.A.C. 7:7-7.2(a)18 (PBR for the placement of predator screens and oyster spat attraction devices within a shellfish lease) and N.J.A.C. 7:7-7.2(a)19 (PBR for the placement of cages within a shellfish lease), N.J.A.C. 7:7-7.35(a)1 requires that all structures be located within a valid shellfish lease area that is authorized in accordance with N.J.S.A. 50:1-23. As previously discussed in the summary of N.J.A.C. 7:7-7.2(a)18, shellfish leases are issued by the New Jersey Shellfisheries Council, subject to approval by the Commissioner of the Department of Environmental Protection, as specified in N.J.S.A. 50:1-23. Leases are issued in areas within the coastal estuaries subject to certain criteria specified in the Leasing of Atlantic Coast Bottom for Aquaculture regulations, N.J.A.C. 7:25-24. To ensure that the proposed structures do not adversely affect special areas, N.J.A.C. 7:7-7.35(a)2 requires that the proposed structures not be located in submerged infrastructure routes, N.J.A.C. 7:7E-3.12, shipwreck and artificial reef habitat, N.J.A.C. 7:7E-3.13, or wetlands, N.J.A.C. 7:7E-3.27. The placement of structures in navigable waters may affect navigation. To ensure that these structures do not pose a hazard to navigation, N.J.A.C. 7:7-7.35(a)3 requires that the structures cannot be located within 50 feet of any designated navigation channel, unless it is demonstrated that the proposed structure will not hinder navigation. Further, the placement of structures within designated navigation channels is prohibited. In addition, N.J.A.C. 7:7-7.35(a)4 requires that the boundaries of the area where the structures are placed be clearly marked in accordance with US Coast Guard requirements for regulatory and informational markers *(US Coast Guard "U.S. Aids to Navigation System" http://www.uscgboating.org/ATON/index.htm.* To ensure that no contaminants leach into the water, N.J.A.C. 7:7-7.35(a)5 requires that the equipment be constructed of non-polluting materials. N.J.A.C. 7:7-7.35(a)6

Legal Citation	Description of change	Enforcement Mechanism	Date adopted by State	Date Effective in State	Significance of Change
7:7-7.35 (continued)					requires that all structures be properly secured to ensure that they remain within the shellfish lease area. Consistent with N.J.A.C. 7:7-7.2(a)18, N.J.A.C. 7:7-7.35(a)7 requires that the structures must not hinder the ability to fish within the lease area. For the same reasons as discussed in the summary of at N.J.A.C. 7:7-7.2(a)18 for the placement of predator screens and oyster spat attraction devices within a shellfish lease, N.J.A.C. 7:7-7.35(b) requires the removal of structures within five days of expiration or termination of the lease, or the cessation of the aquaculture activities, whichever occurs first. N.J.A.C. 7:7-7.35(c) requires the permittee to notify the Department's Bureau of Shellfisheries prior to the commencement of the activities authorized under this GP and N.J.A.C. 7:7-7.35(d) specifies the contents of such notice. Notification is necessary to track the commencement of activities undertaken under this GP as well as to confirm consistency of the activities with the shellfish lease. N.J.A.C. 7:7-7.35(e) identifies specific information that must be included as part of an application for authorization under this GP. N.J.A.C. 7:7-7.35(e)1 requires one copy of a site plan showing the mean high, mean low and spring high water lines of the tidal waters at the site, the area covered by the shellfish lease, existing water depths in the area where the structures will be located and the location of the structures. This information will ensure that the proposed commercial shellfish aquaculture equipment complies with the requirements of this GP. N.J.A.C. 7:7-7.35(e)2 requires the submission of a compliance statement demonstrating how the proposed placement of the commercial aquaculture equipment complies with the requirements of this GP. Based on the above, the Department does not consider the addition of this GP a substantial change to uses subject to management, special management areas, authorities and organization or consideration of the national interest.
7:7-7.36 Coastal general permit for placement of shell within shellfish lease areas	**ADDED 7.36:** New GP for placement of shell within shellfish lease areas.	N.J.S.A. 12:5-3 N.J.S.A. 13:1D-9 N.J.S.A. 13:1D-29 et seq. N.J.S.A. 13:9A-1 et seq. N.J.S.A. 13:19-1 et seq. State Permitting Program	April 16, 2013	April 16, 2013	This new GP authorizes the placement of shell within shellfish lease areas. The purpose of placing shell on shellfish lease areas is to provide clean cultch material (material that forms the basis for the oyster bed) for the setting of juvenile oysters (spat) and to provide a good shell base in areas where oyster habitat has either deteriorated or has become silted over. Barnegat Bay is a good example of a water body where this method of revitalizing shellfish areas

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7:7-7.36 (continued)					is appropriate as many of the extant oyster shell beds have been silted over and current restoration activities have had to use the planting of shell to prepare these shell beds for planting oysters. This activity will be especially important in light of impacts to shellfish beds caused by Superstorm Sandy. Clean cultch material such as shell has been demonstrated to greatly enhance spat set as it provides a greater clean surface area for the oyster larvae to set upon. By utilizing clean shell, oyster habitat is increased as well as the number of oysters available to the harvester. This provides both an ecological and economic benefit. Ecologically, oysters are a natural filterer of estuarine waters and provide habitat for other marine organisms. Economically, more oysters become available to the harvester, since spat set is increased greatly which allows for more product to be harvested without degradation to the existing lease beds. Shelling projects have also been frequently undertaken for the enhancement of existing natural oyster beds or the restoration of extant oyster shell beds. N.J.A.C. 7:7-7.36(a) sets forth the conditions that must be met for the placement of shell to be approvable under this GP. For the same reasons discussed at N.J.A.C. 7:7-7.2(a)18, N.J.A.C. 7:7-7.36(a) requires that all shell be located within a valid shellfish lease area that is authorized in accordance with N.J.S.A. 50:1-23. N.J.A.C. 7:7-7.36(a)1 requires that the planting of cultch be comprised of processed oyster, surf clam and/or ocean quahog shell or other acceptable shell material. Oyster shell is the preferred natural material used by oyster larvae to set on and build oyster reefs. Other types of shell material may be used as an alternative cultch material as oyster shell has become harder to secure due to demand. The use of processed surf clam and ocean quahog shell has been used as an excellent, cost effective natural alternative since clamshell is very similar to oyster shell and provides a large surface area for oyster larvae to set on. Processed shell enhances spat set even further as it is clean when it is planted. N.J.A.C. 7:7-7.36(a)2 requires that the height of the shell material placed on the bottom of the water body not exceed six inches above the bottom substrate. The planting of thick layers of shell (exceeding six inches) will waste valuable oyster setting surface area as shell buried below the surface layer will not be available for the larvae to set on. The preferred method is to plant a thin veneer of shell over a larger area, which maximizes the surface area for spat set relative to volume planted. However, the six inch threshold provides some latitude to the lessee planting shell. For example,

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7:7-7.36 (continued)					more than a thin veneer of shell may be preferred by a planter who wants to build their lease bed to enhance habitat or who is building on an extant shell bed that may be silted over or sinking into the substrate. N.J.A.C. 7:7-7.36(a)3 requires that the placement of shell not pose a hazard to navigation. To ensure that the planted shell does not adversely affect water quality, N.J.A.C. 7:7-7.36(a)4 requires that all shell be clean and free of contaminants. Due to the potential impacts to environmentally sensitive areas, N.J.A.C. 7:7-7.36(b) provides that this GP does not authorize the stockpiling of shell or dredging activities. N.J.A.C. 7:7-7.36(c) identifies specific information that must be included as part of an application for authorization under this GP. N.J.A.C. 7:7-7.36(c)1 requires one copy of a site plan showing the mean high, mean low and spring high water lines of the tidal waters at the site, the area covered by the shellfish lease, existing water depths in the area where the structures will be located and the location of the structures. This information will ensure that the proposed placement of the shell complies with the requirements of this GP. N.J.A.C. 7:7-7.36(c)2 requires the submission of a compliance statement demonstrating how the proposed placement of the shell complies with the requirements of this GP. Based on the above, the Department does not consider the addition of this GP a substantial change to uses subject to management, special management areas, authorities and organization or consideration of the national interest.