



**STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF LAND USE REGULATION**  
Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420  
Telephone: (609) 777-0454 or Fax: (609) 777-3656  
www.state.nj.us/dep/landuse



# PERMIT

<p>In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the limitations, terms and conditions listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.</p>		Approval Date <b>AUG 09 2018</b>
		Expiration Date <b>AUG 10 2023</b>
Permit Number(s):  0000-18-0010.1 FHA180001	Type of Approval(s):  Flood Hazard Area Individual Permit	Enabling Statute(s): NJSA 58:16A et seq. NJSA 58:10A et seq. NJSA 58:11A et seq. NJSA 13:1D-29 et seq. NJSA 13:1D-1 et seq.
Permittee: New Jersey Department of Transportation Attn: Joseph Sweger 1035 Parkway Ave Trenton, NJ 08625	Site Location: Statewide Municipality: Multiple County: Multiple	
<p><b>Description of Authorized Activities:</b></p> <p>This Statewide permit authorizes the following activities: milling, paving, resurfacing, and reconstruction of lawfully existing roadways such that the grade change is limited to a maximum of 2.4 inches, including but not limited to High Performance Thin Overlay (HPTO) projects, in addition to construction of sidewalks and ADA ramps, at various locations throughout the State of New Jersey.</p>		
Prepared by: <i>Stephen Olivera</i> _____ <b>Stephen Olivera</b>	Received and/or Recorded by County Clerk:	
<p>If the permittee undertakes any regulated activity authorized under a permit, such action shall constitute the permittee's acceptance of the permit in its entirety as well as the permittee's agreement to abide by the permit and all conditions therein.</p>		
<p><b>This permit is not valid unless authorizing signature appears on the last page.</b></p>		

**FLOOD HAZARD AREA CONDITIONS:**

1. The permittee shall submit documentation demonstrating compliance with the Flood Hazard Area Control Act Rules for all regulated activities conducted under this permit. For all regulated activities that have commenced from January 1<sup>st</sup> to June 30<sup>th</sup> of each calendar year covered under this permit, the permittee shall submit documentation on August 1<sup>st</sup> of each year and for all regulated activities commenced from July 1<sup>st</sup> to December 31<sup>st</sup> of each calendar year covered under this permit, the permittee shall submit the appropriate documentation on February 1<sup>st</sup> of each calendar.
2. Under this Statewide permit, the milling, paving, resurfacing, and reconstruction of lawfully existing roadways, including but not limited to High Performance Thin Overlay (HPTO) projects, where raising the pavement in the floodway of a regulated water up to 2.4 inches and/or raising the pavement up to 3 inches in the flood fringe of a regulated water will not result in a water surface elevation level increase outside of the right-of-way, nor will it subject any offsite habitable building, railroad, roadway, or parking area to increase depth or frequency of flooding, is permissible provided the lawfully existing roadway crosses the regulated water and is not parallel to the regulated water and any one of the following scenarios apply:
  - a. The controlling high chord along the lawfully existing roadway is not the high point along roadway itself, but a separate structure, such as an existing parapet, an existing curb, an existing sidewalk, or an existing center median barrier;
  - b. The flood hazard area design flood does not overtop the lawfully existing roadway as determined by a simplified hydraulic analysis performed as described below:
    - i. A culvert analysis such as the methodology from the Federal Highway Administration shall be used;
    - ii. The hydrology shall be assumed to be 4 cfs per acre of drainage area; and
    - iii. Tailwater shall be considered to be normal depth, provided there are no downstream control structures within 500 feet of the lawfully existing road. If there is a control structure within 500 feet, then the simplified hydraulic analysis cannot be used;
  - c. The topography upstream of the stream crossing is significantly higher than the paved road, such that upstream structures such as buildings, roadways, parking lots, and/or railroads are well above the road elevation and therefore will clearly not be subject to an increase in flooding as a result of pavement increase as described in 2 above; or
  - d. A hydrologic routing or simplified hydraulic analysis demonstrates that raising the road as described in 2 above does not increase the water surface elevations during the two-year flood, 10-year flood, 25-year flood, 50-year flood, 100-year

flood, and flood hazard area design flood more than 0.04 feet. If the hydrologic routing indicates water surface elevations increase more than 0.04 feet but less than 0.2 feet, compliance with the Flood Hazard Area Control Act Rules is still met as long as it can be demonstrated that offsite habitable buildings, railroads, roadways, or parking areas are not impacted. The hydrologic routing shall consider the following:

- i. The hydrology shall be assumed to be 4 cfs per acre of drainage area; and
  - ii. Tailwater shall be considered to be normal depth, provided there are no downstream control structures within 500 feet of the lawfully existing road. If there is a control structure within 500 feet, then the simplified hydraulic analysis cannot be used.
3. The regulated activities authorized under this permit shall be limited to de minimis stormwater impacts, meeting all of the following requirements:
  - a. The regulated activity, in combination with all proposed activities, shall not increase impervious surfaces by more than 0.25 acres or reduce the water quality treatment provided for a total of 0.25 acre or more of roadway or similar pollutant-generating impervious surface evaluated at each regulated water;
  - b. No structural stormwater management measures are needed to attenuate, treat, or control runoff to provide groundwater recharge, water quality, and/or water quantity control to meet the requirements of the Stormwater Management Rules at N.J.A.C. 7:8 or to meet de minimis stormwater impacts. For the purposes of this permit, the following are not considered as structural stormwater management measures:
    - i. Vegetated filter strips, vegetated areas that allow for disconnection of runoff, and similar treatment of stormwater runoff; and
    - ii. Porous pavement, permeable concrete, interlocking concrete pavers, and gravel areas with stone beds provided these areas are only necessary to provide treatment to runoff generated by itself;
  - c. One of the following applies to increases in runoff from existing to proposed conditions during the 2, 10, and 100-year storms:
    - i. The maximum increase in peak runoff rate for the 2, 10, or 100-year storms to each regulated water is less than 0.5 cfs, or 5% of the total existing runoff rate to each regulated water, whichever is lower. This requirement shall apply to all flows less than or equal to 50 cfs;
    - ii. Where existing flows to each regulated water exceed 50 cfs, the maximum increase in peak runoff rate for the 2, 10, or 100-year storms shall be

limited to less than 1% of the total existing runoff rate to each regulated water, not to exceed 1 cfs; or

- iii. For projects that discharge directly into a tidal water body or channel controlled by a tidal backwater, the aforementioned runoff limits (in c.i. and c.ii.) do not apply unless there is a downstream structure that may be impacted; and
  - d. For the purposes of determining existing runoff rates to regulated waters in the above analyses, a watershed analysis or more conservative methodologies (i.e. USGS StreamStats) may be utilized. The use of StreamStats flowrates for the stormwater runoff comparison analysis above is not an indication the NJDEP allows the use of StreamStats flowrates to establish the Flood Hazard Area.
4. In order to protect fishery resources, no grading, construction or clearing is permitted within any watercourse containing the following species during the time periods specified in the table below. Furthermore, any activity outside a watercourse, which would likely introduce sediment into the watercourse and/or increase its turbidity, is also prohibited during this period. The combined effects of the timing restrictions above shall not restrict activities to less than 183 calendar days per year. The permittee shall coordinate with the Department in the event that the timing restrictions above would limit the activities to less than 183 calendar days per year. The Department reserves the right to suspend all regulated activities onsite should it be determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition. Additionally, turbidity control measures shall be utilized for all in-water work.

**RESTRICTED TIME PERIODS FOR REGULATED WATERS WITH FISHERY RESOURCES**

Water and classification	Time period (inclusive) during which activities are prohibited
<b>1. Trout Waters</b>	
<ul style="list-style-type: none"> <li>• All trout production waters except rainbow trout</li> </ul>	September 15 through March 15
<ul style="list-style-type: none"> <li>• Rainbow trout production waters</li> </ul>	February 1 through April 30
<ul style="list-style-type: none"> <li>• Trout stocked waters</li> <li>• Trout maintenance waters</li> <li>• All regulated waters located within one mile upstream of a trout stocked or a trout maintenance water</li> </ul>	March 15 through June 15
<b>2. Non-Trout Waters</b>	
<ul style="list-style-type: none"> <li>• Regulated waters that support general game fish located north of Interstate 195</li> </ul>	May 1 through July 31
<ul style="list-style-type: none"> <li>• Regulated waters that support general game fish located south of Interstate 195</li> </ul>	May 1 through June 30
<ul style="list-style-type: none"> <li>• Regulated waters that support pickerel</li> </ul>	Ice out through April 30
<ul style="list-style-type: none"> <li>• Regulated waters that support walleye</li> </ul>	March 1 through May 30
<b>3. Anadromous Waters</b>	

<ul style="list-style-type: none"> <li>• All unimpeded tidal regulated waters open to the Atlantic Ocean or any coastal bay</li> <li>• All regulated waters identified as anadromous migratory pathways</li> </ul>	April 1 through June 30
<ul style="list-style-type: none"> <li>• Delaware River upstream of U.S. Route 1</li> </ul>	April 1 through June 30 and September 1 through November 30
<ul style="list-style-type: none"> <li>• Delaware River between U.S. Route 1 and Interstate 295 (Delaware Memorial Bridge)</li> <li>• Tidal portions of Raccoon Creek, Rancocas Creek, Crosswicks Creek, and Cooper River</li> </ul>	March 1 through June 30 and September 1 through November 30
<ul style="list-style-type: none"> <li>• All unimpeded tidal regulated waters open to the Delaware River downstream of Interstate 295 (Delaware Memorial Bridge)</li> <li>• Tidal portions of the Maurice River, Cohansey River, and Salem River</li> </ul>	March 1 through June 30 and October 1 through November 30

5. Prior to the commencement of any site preparation, clearing, grading or construction the permittee is responsible for installing and maintaining silt fences and sediment barriers around all soils disturbed by construction, which are sufficient to prevent the sedimentation of regulated areas. These fences shall serve as both a siltation and debris barrier as well as a physical barrier protecting the undisturbed regulated areas from encroachment by construction vehicles or activities. All sediment barriers and other soil erosion control measures shall be maintained daily in proper working condition throughout the entire duration of the project until such time that the site is stabilized.
  
6. The regulated activity shall not destroy, jeopardize, or adversely modify a present or documented habitat for threatened or endangered species, and shall not jeopardize the continued existence of any local population of a threatened or endangered species.
  
7. In order to protect State and Federally listed threatened and endangered species, the following procedures must be employed by the permittee, New Jersey Department of Transportation, at least 60 days prior to conducting any regulated activity authorized by this permit.
  - a. Work location(s) and access disturbances shall avoid threatened and endangered species habitat(s) wherever feasible. The permittee, NJDOT, shall determine the possible presence of threatened or endangered species on or in the vicinity of proposed projects by utilizing the most current version of New Jersey's Landscape Project mapping (Version 3.3, at the time of permit authorization).
  - b. With regard to the use of the Department's Landscape Project maps, whenever a proposed work location falls within or adjacent to an area documented breeding habitat for Bald Eagle ("Bald Eagle, Nest" Rank 4), Peregrine Falcon ("Peregrine Falcon, Urban Nest" Rank 4) and/or Osprey ("Osprey, Nest" Rank 3) further coordination with DLUR is required as outlined below.
  - c. If further coordination is required as outlined in b above, NJDOT must notify the Department of the proposed activities. In an email addressed to both the



appropriate DLUR project manager and the head of the Endangered & Threatened Species Unit (presently Larry Torok: [Larry.Torok@dep.nj.gov](mailto:Larry.Torok@dep.nj.gov)), NJDOT must include the following information:

- i. The type of work proposed at the specific project area;
  - ii. The date(s) when the proposed activity is set to commence;
  - iii. The complete footprint of disturbance of wetlands impacts (both temporary and permanent) of the proposed project area or delineation of spans of ROW being maintained, electronically submitted in the form of a GIS shapefile (preferred) or USGS map (PDF);
  - iv. Identification of the threatened and/or endangered plant or animal species of concern, as well as any potential fisheries resources of concern; and
  - v. Identification of any potential project-related impacts to the resources cited in item “iv.” above, and all proposed avoidance measures employed to eliminate potential impacts, proposed best management practices to minimize impacts, and/or proposed mitigation methods to restore anticipated impacts.
- d. The Department will review and reply to the e-mail within 14 calendar days of receipt of such requests with one of the following statements.
- i. “The proposed activities **will not adversely impact** threatened or endangered plant or animal species or their habitats, and NJDOT has satisfactorily demonstrated compliance with this permit condition,” or;
  - ii. “The proposed activities **will not adversely impact** threatened or endangered plant or animal species or their habitats *provided* NJDOT accepts and complies with the following specific additional project related conditions or timing restrictions: (required conditions would be attached). Upon receipt of confirmation from NJDOT that the referenced additional permit conditions or timing restrictions required for the proposed project are accepted, NJDOT will have satisfactorily demonstrated compliance with this permit condition,” or;
  - iii. “The activities, as proposed, **will adversely impact** threatened or endangered plant or animal species habitats. Additional coordination with the Department is required prior to the commencement of the proposed activities, including any clearing or site preparation.” Coordination will commence between NJDOT and the Department to expeditiously remedy the areas of non-compliance, or the Department will indicate that the proposed project cannot be authorized under this blanket general permit.

- e. No work shall commence until the permittee obtains confirmation from the Department, consistent with item 9d.i or 9d.ii above, that states that permittee has satisfactorily demonstrated compliance with this permit condition.

Note: Emergency repairs, replacement or maintenance projects or other time-sensitive situations which cannot be afforded the requested 60 days advance notice should be brought to the Department's attention immediately and will be handled in a project-related timeline appropriate to ensure timely action may be taken by NJDOT.

8. All excavated material shall be disposed of in a lawful manner outside of any flood hazard area riparian zone, open water, freshwater wetland and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.
9. Construction equipment shall not be stored, staged or driven within any channel, freshwater wetland or transition area, unless expressly approved by this permit and/or described on the approved plans.
10. All riparian zone vegetation that is temporarily cleared, cut, and/or removed to conduct a regulated activity, access an area where regulated activities will be conducted, or otherwise accommodate a regulated activity shall be replanted immediately after completion of the regulated activity, unless prevented by seasonal weather, in which case the vegetation shall be replanted as soon as conditions permit. The vegetation to be replanted shall:
  - a. Consist of vegetation of equal or greater ecological function and value as the vegetation that was cleared, cut, or removed. For example, herbaceous vegetation may be replaced with the same type of vegetation or with trees, but the trees in forested areas must be replaced with trees of equal or greater density and ecological function and value;
  - b. Consist of native, non-invasive vegetation, except in an actively disturbed area. In an actively disturbed area, the vegetation may be replaced with the same type of vegetation that was cleared, cut, or removed, or with another kind of vegetation typical of an actively disturbed area. For example, lawn grass may be replaced with garden plants or agricultural crops; and
  - c. In cases where replanting would interfere with continued access to or maintenance of a structure that is required by Federal, State, or local law, the vegetation replanted shall meet the requirements to the extent feasible.

#### **STANDARD CONDITIONS:**

1. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction or structure(s). Neither the State nor the Department shall, in any way, be liable for any

- loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.
2. The issuance of a permit does not convey any property rights or any exclusive privilege.
  3. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
  4. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District having jurisdiction over the site.
  5. The permittee shall take all reasonable steps to prevent, minimize, or correct any adverse impact on the environment resulting from activities conducted pursuant to the permit, or from noncompliance with the permit.
  6. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of the permit. The Department may, upon discovery of such unanticipated adverse effects, and upon the failure of the permittee to submit a report thereon, notify the permittee of its intent to suspend the permit, pursuant to N.J.A.C. 7:13-22.7.
  7. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (Warn DEP Hotline) of any noncompliance that may endanger the public health, safety, and welfare, or the environment. In addition, the permittee shall inform the Division of Land Use Regulation by telephone at (609) 777-0454 of any other noncompliance within two working days of the time the permittee becomes aware of the noncompliance, and in writing within five working days of the time the permittee becomes aware of the noncompliance. Such notice shall not, however, serve as a defense to enforcement action if the project is found to be in violation of this chapter. The written notice shall include:
    - a. A description of the noncompliance and its cause;
    - b. The period of noncompliance, including exact dates and times;
    - c. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
    - d. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
  8. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the authorized activity in order to maintain compliance with the conditions of the permit.



9. The permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29.
10. The issuance of a permit does not relinquish the State's tidelands ownership or claim to any portion of the subject property or adjacent properties.
11. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
12. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
  - a. Enter upon the permittee's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of the permit;
  - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; and
  - c. Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit. Failure to allow reasonable access under this paragraph shall be considered a violation of this chapter and subject the permittee to enforcement action under.
13. The permittee shall not cause or allow any unreasonable interference with the free flow of a regulated water by placing or dumping any materials, equipment, debris, or structures within or adjacent to the channel while the regulated activity(ies) is being undertaken. Upon completion of the regulated activity(ies), the permittee shall remove and dispose of in a lawful manner, all excess materials, debris, equipment, and silt fences and other temporary soil erosion and sediment control devices from all regulated areas.
14. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit. Any noncompliance with this permit constitutes a violation, and is grounds for enforcement action, as well as modification, suspension and/or termination of the permit.
15. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect so long as the regulated activity or project, or any portion thereof, is in existence, unless the permit is modified.
16. Except for an authorization under general permit 1 for channel cleaning under the Stream Cleaning Act at N.J.A.C. 7:13-9.1, the permittee shall record the permit, including all conditions listed therein, with the Office of the County Clerk (the Registrar of Deeds and Mortgages, if applicable) of each county in which the site is located. The permit shall be recorded within 30 calendar days of receipt by the permittee, unless the permit authorizes activities within two or more counties, in which case the permit shall be recorded within 90 calendar days of receipt. Upon completion of all recording, a copy of the recorded

permit shall be forwarded to the Division of Land Use Regulation at the address set forth in the rules.

17. The permittee shall perform any mitigation required under the permit prior to or concurrently with regulated activities in accordance with N.J.A.C. 7:13-13.
18. If any condition or permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect public health, safety, and welfare, or the environment.
19. Any permit condition that does not establish a specific timeframe within which the condition must be satisfied (for example, prior to commencement of construction) shall be satisfied within six months of the effective date of the permit.
20. A copy of the permit and all approved site plans and supporting documents shall be maintained at the site at all times and made available to Department representatives or their designated agents immediately upon request.
21. The permittee shall provide monitoring results to the Department at the intervals specified in the permit.
22. A permit shall be transferred to another person only in accordance with the regulations.
23. A permit can be suspended or terminated by the Department for cause.
24. The submittal of a request to modify a permit by the permittee, or a notification of planned changes or anticipated noncompliance, does not stay any condition of a permit.
25. Where the permittee becomes aware that it failed to submit any relevant facts in an application or submitted incorrect information in an application or in any report to the Department, it shall promptly submit such facts or information.
26. The permittee shall submit written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, 401 East State Street, 4th Floor, P.O. Box 420, Mail Code 401-04C, Trenton, NJ 08625, at least three working days prior to the commencement of regulated activities.
27. The regulated activity shall not destroy, jeopardize, or adversely modify a present or documented habitat for threatened or endangered species, and shall not jeopardize the continued existence of any local population of a threatened or endangered species.


#### **RIGHT TO APPEAL:**

In accordance with the applicable regulations, any person who is aggrieved by this decision or any of the conditions of this permit may request an adjudicatory hearing within 30 calendar days after public notice of the decision is published in the DEP Bulletin. This request must

include a completed copy of the Adjudicatory Hearing Request form. The DEP Bulletin is available through the Department's website at <http://www.nj.gov/dep/bulletin> and the form is available through the Division's website at [http://www.nj.gov/dep/landuse/download/lur\\_024.pdf](http://www.nj.gov/dep/landuse/download/lur_024.pdf). In addition to requesting a hearing, a request may be filed with the Department's Office of Dispute Resolution to determine whether the matter is suitable for mediation. Information concerning the dispute resolution process is available at [www.nj.gov/dep/odr](http://www.nj.gov/dep/odr).

If you need clarification on any section of this permit or conditions, please contact the Division of Land Use Regulation's Technical Support Call Center at (609) 777-0454.

Approved By:

  
\_\_\_\_\_  
Vincent J. Mazzei, Jr., P.E., Manager  
Division of Land Use Regulation

8/9/18  
\_\_\_\_\_  
Date



