



**LEGACY PERIOD DISCUSSION
JUNE 10, 2026 – 12 PM**



Anton Getz, CFM
Principal GIS Specialist
T&M Associates



AGENDA



1. The Proposed Legacy Period Extension
2. What Rules/Permits Apply Under the Legacy Period
3. Examples (of Permit Applicability)
4. Q&A from the May 13, 2026 REAL Talk session
5. Open Discussion



1. THE PROPOSED LEGACY PERIOD EXTENSION

- The REAL rules set forth legacy provisions, which generally provide that the rules in effect immediately prior to REAL's January 20, 2026 effective date will be applied to any project for which the applicant submits an **administratively and technically complete application** for an **individual permit, general permit, verification, letter of interpretation, transition area waiver, or water quality certificate**, pursuant to the CZM, FWPA, FHACA, or SWM rules to the Department before July 20, 2026. These legacy provisions are codified at N.J.A.C. 7:7-26.1(b), 7:7A-19.1(b), 7:8-1.6(b), and 7:13-21.1(b).
- On June 1, 2026, the State proposed to extend the end date for the legacy period within the REAL provisions from **July 20, 2026 to July 20, 2027**.
- Unlike individual and general permits and other determinations listed above, implementation of the amended and new **permits-by-registration and general-permits-by-certification** began on January 20, 2026 and is **NOT proposed to be subject to the legacy provisions**.

1. THE PROPOSED LEGACY PERIOD EXTENSION

- All information posted to: <https://dep.nj.gov/njreal/>
- Applies to N.J.A.C. 7:7-26.1; 7:7A-19.1; 7:8-1.6; and 7:13-2.1 and 21.1
 - (Coastal Zone Management Rules, Freshwater Wetlands Protection Act Rules, Stormwater Management Rules, Flood Hazard Area Control Act Rules)
- **60-day comment period that ends July 31, 2026**
 - <https://dep.nj.gov/rules/rule-comment-form/>
 - Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.
- **A virtual public hearing** will be held on **Tuesday, July 7, 2026 at 6 pm**
 - A Microsoft Teams link will be posted to <https://dep.nj.gov/njreal/>.
 - Must register to speak by **5 pm on July 5, 2026**

1. THE PROPOSED LEGACY PERIOD EXTENSION



So what happens on
July 20, 2026 since
the legacy rule
extension will not
be adopted by then?

- The Department anticipates taking action on that rule proposal, subject to consideration of all public comments, in late summer, 2026.
- Until that time, the Department will continue to apply the legacy provisions in the REAL rule to review eligible applications received on or after the initial legacy period end-date of July 20, 2026.

2. What Rules/Permits Apply Under the Legacy Period

- <https://dep.nj.gov/wp-content/uploads/njreal/docs/real-legacy-provisions-6.1.2026.pdf>
- <https://dep.nj.gov/wp-content/uploads/njreal/real-legacy-provisions-6.9.2026.pdf>

NJPACT REAL: LEGACY PROVISIONS

Updated June 1, 2026

Guide for Determining Which Rule Version Applies to Your Project

JANUARY 20, 2026**

***updated June 1, 2026 – this version replaces and supersedes all previous versions*

TABLE OF CONTENTS

COASTAL ZONE MANAGEMENT RULES, N.J.A.C. 7:7 AND FRESHWATER WETLANDS PROTECTION ACT RULES, N.J.A.C. 7:7A.....	2
FLOOD HAZARD AREA CONTROL ACT RULES, N.J.A.C. 7:13.....	3
STORMWATER MANAGEMENT RULES N.J.A.C. 7:8.....	9

INTRODUCTION

On January 20, 2026, the New Jersey Department of Environmental Protection (Department) adopted regulations known as the New Jersey Protecting Against Climate Threats (NJPACT) Resilient Environments and Landscapes (REAL) rules. The REAL rules modernize New Jersey's environmental land use rules to respond to climate change by considering sea-level rise and the accompanying increased flood elevation and expanded flood hazard areas.

NJPACT REAL: LEGACY PROVISIONS

Updated June 9, 2026

Guide for Determining Which Rule Version Applies to Your Project

JANUARY 20, 2026**

***updated June 9, 2026 – this version replaces and supersedes all previous versions*

TABLE OF CONTENTS

COASTAL ZONE MANAGEMENT RULES, N.J.A.C. 7:7 AND FRESHWATER WETLANDS PROTECTION ACT RULES, N.J.A.C. 7:7A.....	2
FLOOD HAZARD AREA CONTROL ACT RULES, N.J.A.C. 7:13.....	3
STORMWATER MANAGEMENT RULES N.J.A.C. 7:8.....	9

2. What Rules/Permits Apply Under the Legacy Period

- If the proposed rule is adopted, until July 20, 2027 the following can use the July 17, 2023 Flood Hazard Area Rule set:
 - **A flood hazard area verification → What Flood Zone and Flood Elevation apply to a property**
 - **General Permit**
 - **Individual Permit**

SUBCHAPTER 21. APPLICATION REVIEW

7:13-21.1 General application review provisions

(a) This subchapter sets forth the review procedures, including circumstances through which the requirements of this chapter in effect prior to January 20, 2026, will apply, for applications for a verification, applications for authorization under a general permit, and applications for an individual permit.

2. What Rules/Permits Apply Under the Legacy Period

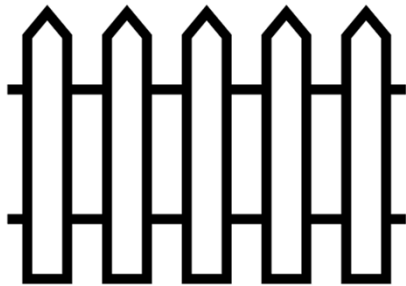
- **Permits by Registration and General Permits by Certification CANNOT** use the Legacy rules.
- However, they are **NOT** required in the coastal CAFE area under the Legacy Period (until July 20, 2027)
- They are required in the riverine CAFE (FEMA BFE plus 3 feet)
- They are required in the current coastal FEMA Flood Hazard Area (Effective or Preliminary)

EXEMPTIONS, PERMITS-BY-REGISTRATION AND GENERAL PERMITS-BY-CERTIFICATION WHERE ACTIVITIES ARE PROPOSED IN THE EXPANDED FLOOD HAZARD AREA UNDER THE JANUARY 20, 2026, REAL RULES

New or amended exemptions (N.J.A.C. 7:13-2.5), permits-by-registration (N.J.A.C. 7:13-7), and general permits-by-certification (N.J.A.C. 7:13-8), became effective on January 20, 2026, replacing the pre-existing permits-by-rule and general-permits-by-certification. However, while these new and amended permits-by-registration and general-permits-by-certification are available for applicants to utilize, they are not required for activities located outside the pre-January 20, 2026, flood hazard area until July 20, 2027. This is because unlike within the pre-January 20, 2026, flood hazard area, there are no individual or general permit standards applicable to the expanded flood hazard area because the Department's jurisdiction under N.J.A.C. 7:13 did not exist there prior to January 20, 2026. Thus, no flood hazard area approval is required for these activities until July 20, 2027.

3. Examples of Permit Applicability

Project	In Riverine SFHA or FEMA BFE plus 3	In Coastal SFHA / IRZ	In Coastal SFHA / Non-IRZ	In Coastal FEMA BFE plus 4 (currently Zone X)
Fence	Permit by Registration 11	Permit by Registration 11	Permit by Registration 11	N/A (permit not needed)



7:13-7.11 Permit-by-registration 11--construction of a fence

(a) This permit-by-registration authorizes the construction of a fence; provided the conditions at N.J.A.C. 7:13-6.7 are met and:

1. No disturbance is located within 25 feet of any top of bank;
2. No trees are cleared, cut, and/or removed in a riparian zone; and
3. Except where otherwise required pursuant to the Uniform Construction Code, N.J.A.C. 5:23, any fence located in a floodway has openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as a barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain link, lattice, or picket fence, does not meet this requirement.

3. Examples of Permit Applicability

Project	In Riverine SFHA or FEMA BFE plus 3	In Coastal SFHA / IRZ	In Coastal SFHA / Non-IRZ	In Coastal FEMA BFE plus 4 (currently Zone X)
Deck	Permit by Registration 8	Permit by Registration 8	Permit by Registration 8	N/A (permit not needed)



7:13-7.8 Permit-by-registration 8--construction of a deck

(a) This permit-by-registration authorizes the construction of a deck that is connected to a lawfully existing building; provided the conditions at N.J.A.C. 7:13-6.7 are met and:

1. The deck, if located in a flood hazard area, is not enclosed with walls either above or below its floor, except for protective or decorative open fencing, banisters, or latticework that allow floodwaters to pass freely. Except where otherwise required pursuant to the Uniform Construction Code, N.J.A.C. 5:23, openings the fencing, between banisters, and in the latticework shall be no less than six inches;
2. The space between the steps of any stairway that connects the deck to ground level is open in order to allow floodwaters to pass freely;
3. Except where otherwise required pursuant to the Uniform Construction Code, N.J.A.C. 5:23, any rails or banisters used in the stairway have openings no less than six inches apart;
4. No disturbance is located within 25 feet of any top of bank; and
5. The project will not result in a net loss of greater than 2,000 square feet of riparian zone vegetation.

3. Examples of Permit Applicability

***Within CAFRA areas
CZM GPC 5 can be used*

Project	In Riverine SFHA or FEMA BFE plus 3	In Coastal SFHA / IRZ**	In Coastal SFHA / Non-IRZ	In Coastal FEMA BFE plus 4 (currently Zone X)
Addition to an existing house (less than 750 square feet)	General Permit by Certification 1 or 2	Can't use GPC1 or 2 due to IRZ – instead use 2023 Individual Permit	General Permit by Certification 1 or 2	N/A (permit not needed)



SUBCHAPTER 8 – GENERAL PERMITS-BY-CERTIFICATION

7:13-8.1 General permit-by-certification 1--reconstruction, relocation, expansion, and/or elevation of a building outside a floodway and an inundation risk zone

(a) This general permit-by-certification authorizes the reconstruction, relocation, expansion, and/or elevation of a lawfully **existing building located outside a floodway and an inundation risk zone**; provided the conditions at N.J.A.C. 7:13-6.7 are met and:

7:13-8.2 General permit-by-certification 2--construction of an addition to a lawfully existing building

(a) This general permit-by-certification authorizes the construction of one or more additions above or adjoining a lawfully existing building; provided the conditions at N.J.A.C. 7:13-6.7 are met and:

1. No portion of the existing building or addition is located **within a floodway or inundation risk zone**;

3. Examples of Permit Applicability

***Within CAFRA areas
(Lagoon/Bulkhead lot)
CZM GPC 6 can be used*

Project	In Riverine SFHA or FEMA BFE plus 3	In Coastal SFHA / IRZ**	In Coastal SFHA / Non-IRZ	In Coastal FEMA BFE plus 4 (currently Zone X)
New Single Family House	General Permit 6	Can't use GP6 due to IRZ – instead use 2023 GP6 or 2023 Individual Permit	2023 General Permit 6	N/A (permit not needed)



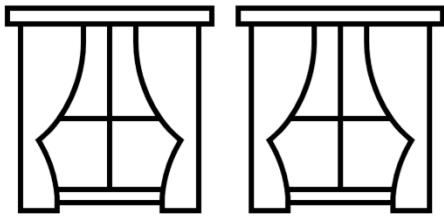
7:13-9.6 General permit 6--construction of one single-family home or duplex, and one associated driveway that does not cross a regulated water

(a) This general permit authorizes the construction of one single-family home or duplex, and one associated driveway that does not cross a regulated water, provided the conditions at N.J.A.C. 7:13-6.7 are met and:

1. No fill or structures are **located within a floodway or inundation risk zone;**

3. Examples of Permit Applicability

Project	In Riverine SFHA or FEMA BFE plus 3	In Coastal SFHA / IRZ	In Coastal SFHA / Non-IRZ	In Coastal FEMA BFE plus 4 (currently Zone X)
Replacement of Windows in House	No state FHA permit that applies (does need local review/approval & Substantial Improvement tracking)	No state FHA permit that applies (does need local review/approval & Substantial Improvement tracking)	No state FHA permit that applies (does need local review/approval & Substantial Improvement tracking)	N/A (permit not needed)



3A. Legacy Permits in NJDEP Online Portal

- Stormwater is still using pre-January 2026 definition of major development

PERMIT SCOPE - GENERAL

Please be sure to answer each question below accurately. The selected answers will be used to determine the type of permit being applied for.

Is the applicant or co-applicant a public entity?

Stormwater

Does the entire proposed project meet the definition of a **"major development"** pursuant to the Stormwater Management rules at N.J.A.C. 7:8-1.2?

"Major development" means an individual "development," as well as multiple developments that individually or collectively result in:

1. The disturbance of one or more acres of land since February 2, 2004;
2. The creation of one-quarter acre or more of "regulated impervious surface" since February 2, 2004;
3. The creation of one-quarter acre or more of "regulated motor vehicle surface" since March 2, 2021; or
4. A combination of 2 and 3 above that totals an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one-quarter acre or more.

For more information, please see the new FAQ for Stormwater at <https://dep.nj.gov/wp-content/uploads/stormwater/meeting-the-gi-requirement-fact-sheet-2.pdf>

3A. Legacy Permits in NJDEP Online Portal

- GPs and IPs are still using pre-January 2026 options

Server: Server_2 Help | Logout

1 - Instructions

2 - Application Name

3 - Project Description

4 - Site Information

5 - Permit Scope - General

6 - Permit Scope - Flood Hazard

7 - Fee Summary

8 - Permit Details - General

9 - Contacts

10 - Attachment Upload

11 - Certification

12 - Payment

PERMIT SCOPE - FLOOD HAZARD

Please be sure to select the correct permit type(s) and/or verification method(s) below. The permit type(s) and/or verification method(s) selected will be used to determine the information necessary to complete the application and to calculate the fees for the application. Multiple types of individual permits are included to ensure the appropriate fees are applied based on the type of activity proposed. If the applicable individual permit activity is not listed in the drop down, please select "Individual permit - FH Other". Omitting any information or providing inaccurate information may result in an incorrect fee calculation.

To select more than one type of flood hazard permit for this application, please select the "Add Row" button below. For the full list of application fees, see http://www.nj.gov/dep/landuse/download/lur_022.pdf.

Note: The fee amounts listed in the Permit Type table reflect the additive fee amount based on specific questions for specific permit types ("Individual Permit - FH Other" will be zero in this table). The Additional Fee table includes the fees applied to the entire project. Amounts from both tables will be totaled in the field called "Total Flood Hazard/Verification Fees" at the bottom of the page.

Select all Permit Types that apply:

Row	Permit Type	Fee	Remove
1	GP1 Channel Cleaning Under Stream Cleaning Act GP2 Mosquito Control GP3 Scour Protection Bridges/Culverts GP4 Habitat Creation/Restoration/Enhancement GP5 Reconstruct and/or Elevation-Building in Floodway GP6 Development SFH/Duplex and Driveway GP7 Relocation of Manmade Roadside Ditches for Public Roadway Improvements GP8 Placement of Storage Tanks GP9 Bridge/Culvert Across Water < 50 acres GP10 Bridge/Culvert Across Water >= 50 acres GP11 Stormwater Outfall Regulated Water < 50 acres GP12 Footbridges GP13 Trails/Boardwalks GP14 Herbicide App in Riparian Zone-Invasive Plant Individual Permit-FH Bank/Channel Individual Permit-FH Bridge/Culvert/Footbridge/Low Dam		

0

Remove

Add Row

The following table reflects the fees for the selected permit types for this project.

Fee
\$0
\$0
\$0

Save Continue

Please Note
You may click on a previously visited page (above) to navigate back to that screen.

[contact dep](#) | [privacy notice](#) | [legal statement](#) | [accessibility statement](#)

3B. Legacy Rules

- <https://dep.nj.gov/wlm/laws-regulations/>

Regulations (N.J.A.C.) Effective Prior to January 20, 2026

Description	Citation	Link
Legacy Freshwater Wetlands Protection Act Rules	N.J.A.C. 7:7A	
Legacy Flood Hazard Area Control Act Rules	N.J.A.C. 7:13	
Legacy Coastal Zone Management Rules	N.J.A.C. 7:7	
Legacy Highlands Water Protection and Planning Rule	N.J.A.C. 7:38	
Legacy Stormwater Management Rule	N.J.A.C. 7:8	
Legacy Flood Hazard Area Technical Manual	-	

4. Q&A from May 13, 2026 REAL Talk Session

- Q: What are the permit requirements for ancillary items such as exterior backup generators and AC units?
- A: Units must be elevated to the appropriate design flood elevation (FEMA + State + Local + Building Code + Freeboard)
- A: Use Permit by Registration 5 – construction of a non-habitable building; also needs a local floodplain permit

7:13-7.5 Permit-by-registration 5--construction of a non-habitable building(s)

(a) This permit-by-registration authorizes the construction of one or more non-habitable buildings, such as a shed or animal shelter; provided the conditions at N.J.A.C. 7:13-6.7 are met and:

1. The building is not located within a floodway;
2. The footprint of all buildings constructed under this permit-by-registration does not exceed 200 square feet, cumulatively, since November 5, 2007;
3. No disturbance is located within 25 feet of any top of bank; and
4. No trees are cleared, cut, and/or removed in a riparian zone except within 10 feet of a proposed building, where such disturbance is necessary for its placement or construction.

4. Q&A from May 13, 2026 REAL Talk Session

- Q: How do I determine the extent of the NJDEP floodplains? For riverine areas it is FEMA BFE plus 3 feet, for coastal/tidal it is FEMA BFE plus 4 feet.
- A: There is no “official” mapping released by the state, but there is approximate mapping. If a property falls within the approximate mapping or within a buffer, it is highly recommended to assess the project on the property for floodplain applicability.
- A: Calculate flood elevation using engineering judgement and compare to site (ground) and building elevations (adjacent grades, first floor elevations, basement/crawlspace elevations).

**If Regulated Flood Elevation > Ground Elevations or Lowest Adjacent Grade
Then property/building is IN regulated floodplain**

- A: Note the riverine FEMA BFE plus 3 is fully in effect (since July 2023) and is NOT affected by the legacy period of the REAL rules. Compliance within the full riverine floodplain is required.

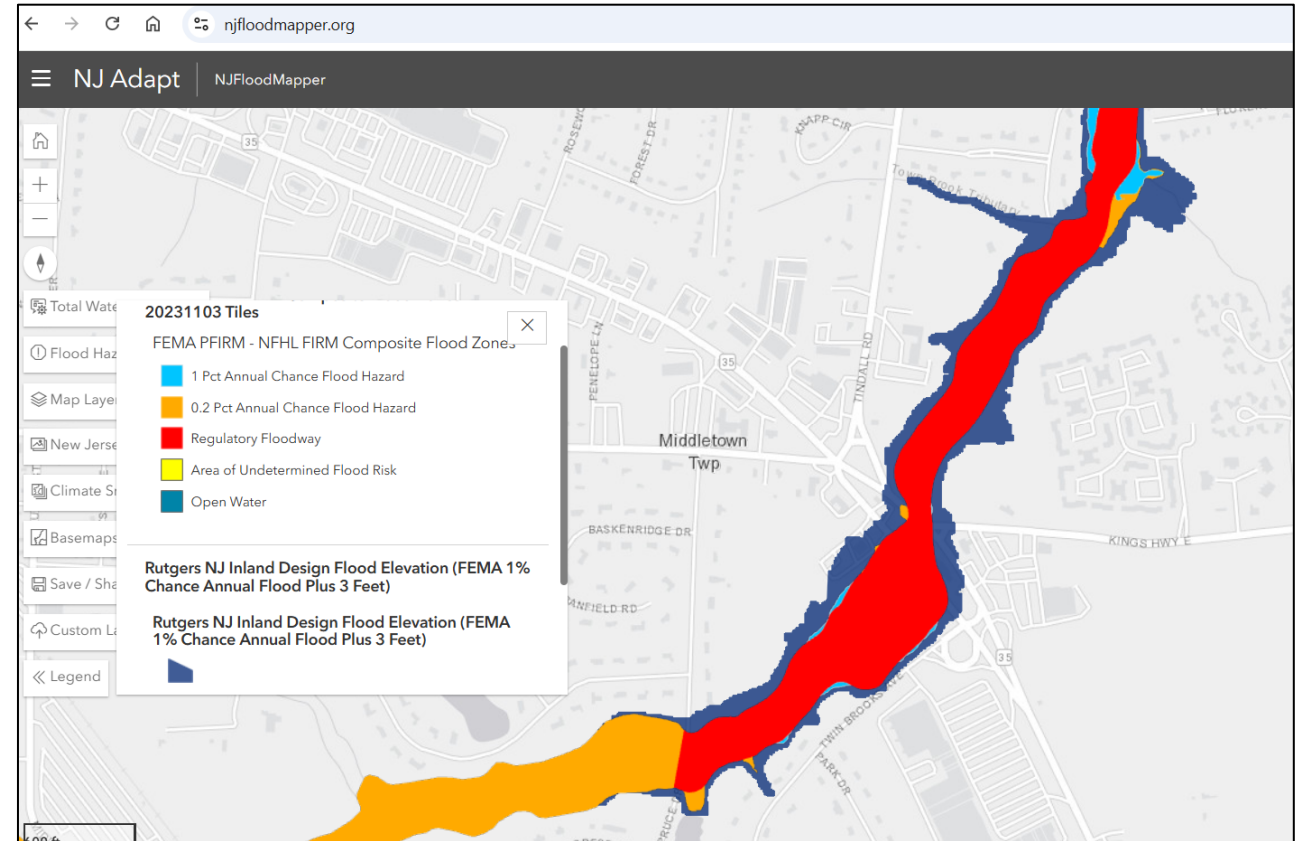
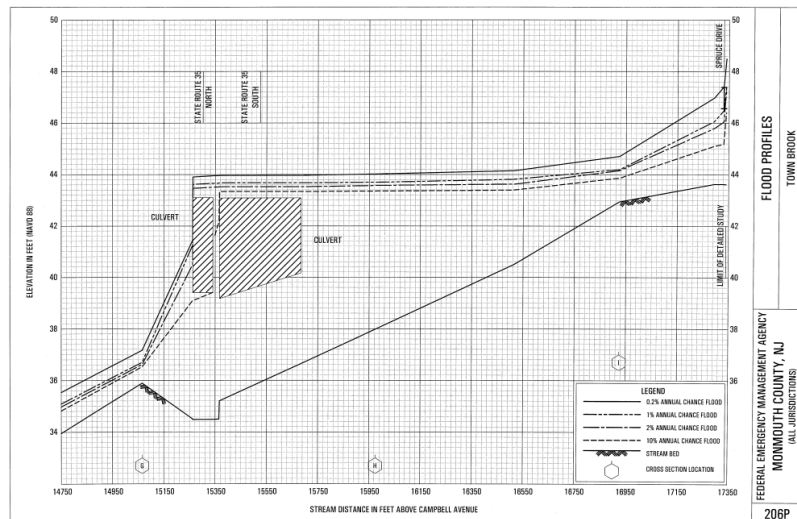
4. Q&A from May 13, 2026 REAL Talk Session

Fluvial/Riverine (Inland) Flood Hazard Areas

Can use

<https://www.njfloodmapper.org/> as a screening tool for FEMA + 3 ft.

Communities have been customizing the Rutgers FEMA + 3 ft layer for local permitting and enforcement.



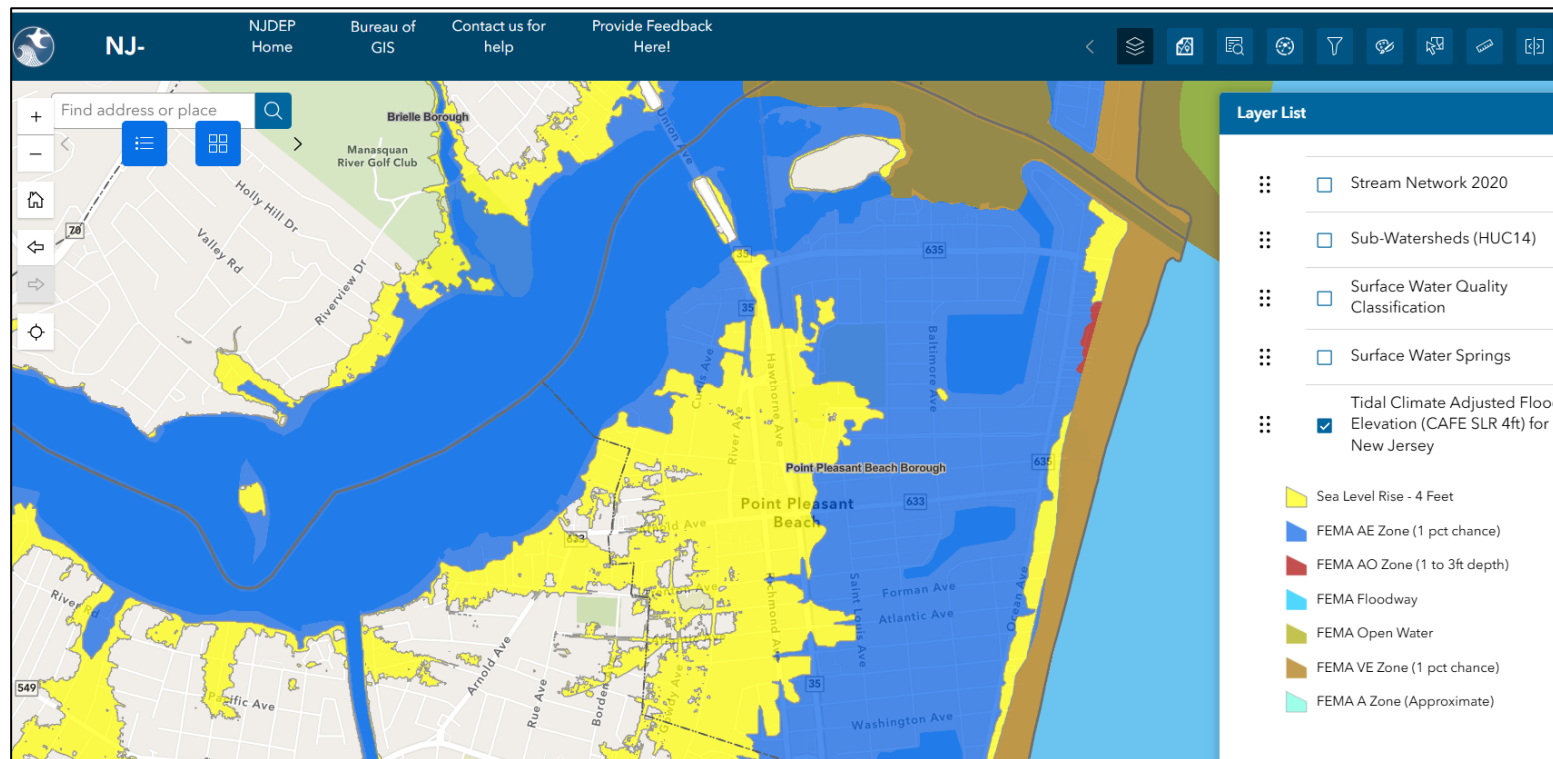
4. Q&A from May 13, 2026 REAL Talk Session

Coastal/Tidal Flood Hazard Areas

Can use <https://dep.nj.gov/gis/nj-geoweb/> as a screening tool for FEMA + 4 ft.

Under “Water” category, turn on CAFÉ SLR 4ft.

Expanded Area
Not enforced
until July 20,
2027



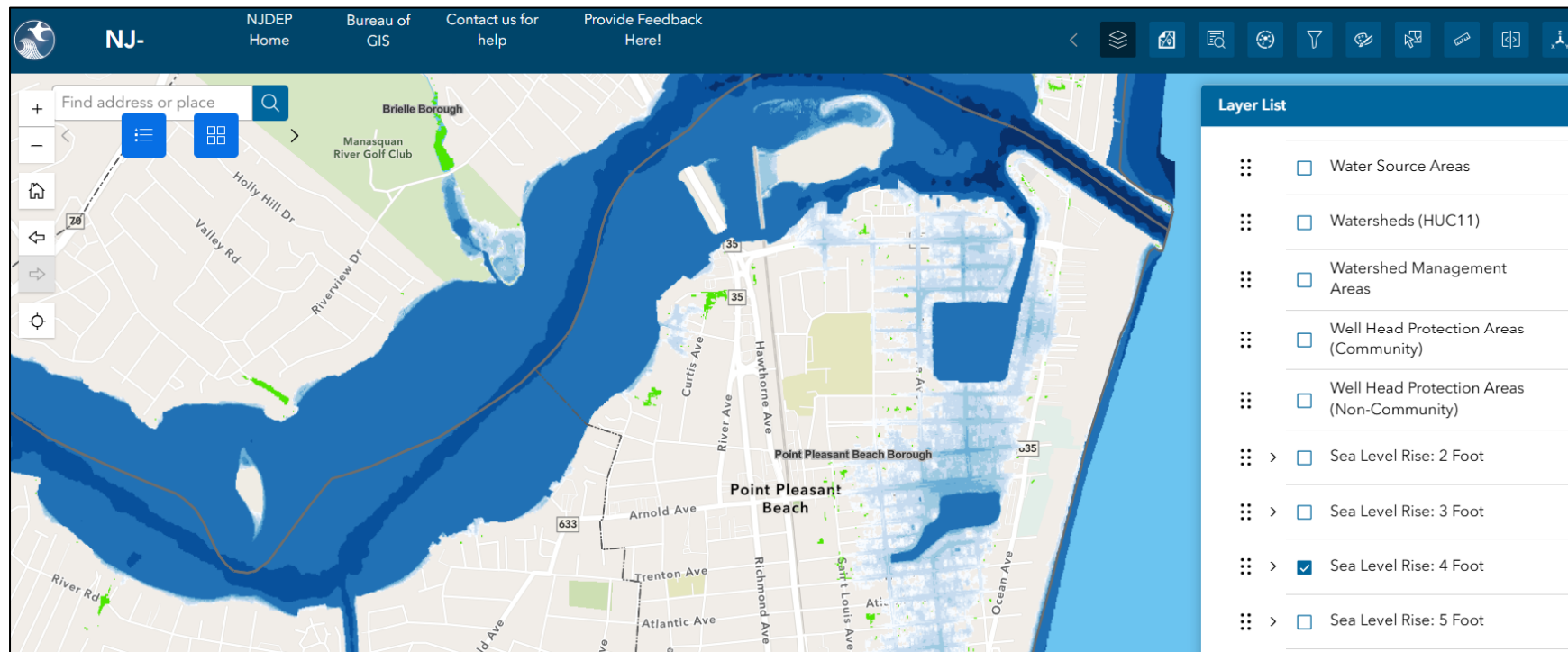
4. Q&A from May 13, 2026 REAL Talk Session

Inundation Risk Zone

Can use <https://dep.nj.gov/gis/nj-geoweb/> as a screening tool.

Under “Water” category, turn on Sea Level Rise 4 Foot.

Not enforced
until July 20,
2027



4. Q&A from May 13, 2026 REAL Talk Session

- Q: How do I apply the CAFE to AO Zones?
- A: Add the additional state required feet to the AO Depth. So, AO Depth 2' in a riverine area would be AO Depth 5'. Then add freeboard on top of that. Then measure from highest adjacent grade of the proposed building to determine the required elevation of the first floor.
- Q: How do I apply the rules and CAFE to dry floodproofing?
- A: The required elevation to which dry floodproofing reaches is the same as if you were elevating the building. So, in riverine areas it is FEMA BFE plus 3 feet, plus freeboard (plus any additional building code or local higher standards).



Photo credit: Floodproofing.com

4. Q&A from May 13, 2026 REAL Talk Session

- Comment: Elevating roadways and parking areas above the CAFE plus freeboard is proving challenging.
- A: “Dry access” is one of the more complicated portions of the rule. Currently dry access for riverine areas is in effect and required (with exceptions). It is not required for coastal until July 20, 2027, but even then, there are exceptions. Below is a summary of the REAL rules as if they were fully in effect.



4. Q&A from May 13, 2026 REAL Talk Session

Dry Access Requirements

Dry access is required for **multi-residential, residential subdivision, and any critical buildings** within the **fluvial/riverine flood hazard area** up to the CAFE+1 ft freeboard, but no lower than FEMA's BFE. (7:13-12.5(m))

- Where CAFE standard cannot be achieved in fluvial/riverine areas, both an engineering certificate (7:13-12.6(c)2) and a deed notice are required.

Dry access is not required for **buildings** within **coastal/tidal flood hazard areas**, as long as a deed notice is filed. (7:13-12.5(m)2.ii)

What must the Deed notice say?

- Must disclose maximum depth of floodwaters through which motor vehicles would be required to pass through in order to access the site when flooded to the CAFÉ elevation.

Dry access is required for **roads, railroads, airports, and parking areas** in both **fluvial and tidal flood areas**, with multiple exceptions (7:13-12.6(c)(d)(e)).

- Where CAFE standard cannot be achieved, both an engineering certificate and signage are required.

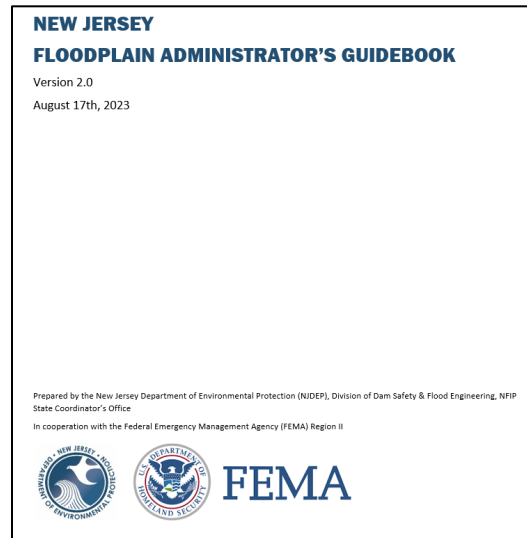
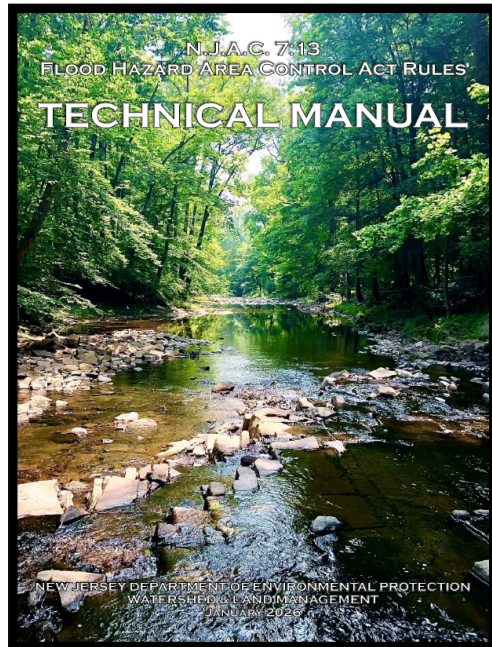
→ See Section 12 of the Technical Manual

4. Q&A from May 13, 2026 REAL Talk Session

- Q: By adding 3' to fluvial/riverine flood hazard areas and 4' to tidal/coastal flood hazard areas, there will be areas of overlap within the state. How will these areas be regulated? Will the Applicant need to demonstrate compliance with the most restrictive requirements across both the fluvial and tidal regulations?
- A: The Flood Hazard Area Technical Manual discusses this in section 4.3 “Tidal vs. Fluvial Flood Hazard Areas”. The short answer is yes. Sites that have a higher tidal/coastal regulated flood elevation may still be subject to the fluvial/riverine dry access and flood storage volume requirements.

4. Q&A from May 13, 2026 REAL Talk Session

- Comment: The Flood Hazard Area Technical Manual helps explain the new rules. The State Floodplain Administrator's Guide is also useful.
- https://dep.nj.gov/wp-content/uploads/wlm/downloads/fha/fh_044.pdf
- https://dep.nj.gov/wlm/drec/flood-engineering/nfip/#FA_guidebook



5. Open Discussion



agetz@tandmassociates.com