

**REGULATIONS FOR THE REVIEW ZONE OF
THE DELAWARE AND RARITAN CANAL STATE PARK**

SUBCHAPTER 1 GENERAL INFORMATION

7:45-1.1 Purpose

The Delaware and Raritan Canal Commission was created pursuant to the Delaware and Raritan Canal State Park Law of 1974, N.J.S.A. 13:13A-1 et seq. The Commission is authorized to prepare and adopt a Master Plan for the physical development of the Delaware and Raritan Canal State Park and to establish zones in which it will review all private and public projects that impact on the Park and ensure that the projects conform as nearly as possible to the Master Plan adopted by the Commission. This chapter establishes the procedure for the review and sets forth the standards that will be considered by the Commission. The rules are intended to encourage consideration of the natural, historic, and recreational resources of the Park and its environs at the earliest stages of land-use planning and to promote cooperation between the Commission, municipal, county and State reviewing agencies, and private land users.

7:45-1.2 Forms and information

(a) Application forms or other information related to this chapter may be obtained from the Commission as follows:

1. Through the Commission's website at www.dandrcanal.com; or by contacting the Commission at:

D&R Canal Commission
P.O. Box 539
Stockton, NJ 08559
609-397-2000
Fax: 609-397-1081

(b) Application forms, correspondence, and other materials shall be submitted to the address in (a) above, except that courier and hand deliveries shall be delivered to:

D&R Canal Commission
33 Risler Street
Stockton, NJ 08559

(c) Application forms, correspondence, or other materials sent or delivered to an address other than those in (a)1 and (b) shall not be deemed to have been received for the purposes of calculating application review deadlines or other time periods under this chapter.

7:45-1.3 Definitions

As used in this chapter, the following words and terms shall have the following meanings unless the context clearly indicates otherwise:

“Act” shall mean the Delaware and Raritan Canal State Park Law of 1974, N.J.S.A. 13:13A-1 et seq.

“Administrative Procedure Act” or “APA” means N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

“Canal” means the Delaware and Raritan Canal and the abandoned section of the Canal in the Township of Hamilton, County of Mercer.

“Commission” means the Delaware and Raritan Canal Commission.

“Compaction” means the increase in soil bulk density.

“Department” means the Department of Environmental Protection.

“Design engineer” means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

“Disturbance” means construction or other human activity that disturbs the surface of the land, or the soil below the land surface, including, but not limited to, clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, timber harvesting activities, road maintenance activities, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock or earth materials.

“Drainage area” means a geographic area within which stormwater runoff, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

“Erosion” means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

“General permit” means an authorization to approve a project for which the terms and conditions are established in a rule promulgated under this chapter at N.J.A.C. 7:45-6, and for which a person must submit an application for authorization.

“Governmental project” means the undertaking of a public improvement, disturbance, development, construction or land-use change by a State department or agency, county, municipality or any other governmental entity except interior alterations to an existing structure that involves no change of use.

“Impervious surface” means a surface that has been covered with a layer of material so that the surface is highly resistant to infiltration by water. Examples of impervious surface include but are not limited to asphalt, concrete, graveled surfaces, metal, synthetic turf, buildings, sidewalks, driveways, tennis courts, swimming pools and most structures.

“Individual approval” means an approval issued by the Commission after application and review is made in accordance with N.J.A.C. 7:45-2 through 4.

“Infiltration” is the process by which water seeps into the soil from precipitation.

“Major project” means a project that results in one or more of the following:

1. In Zone A and Zone B, the cumulative coverage since January 11, 1980, of one quarter acre of land with impervious surface; or
2. In Zone A and Zone B, the disturbance of one acre or more of land; or
3. In Zone A and Zone B, the disturbance of one half acre or more of existing impervious surface or significantly disturbed areas, for the purposes of construction, if the project site either:
 - i. Drains into the Canal; or
 - ii. is located within a drainage area of a water course that discharges into the Canal from the point where the water course enters into the Canal up to the point at which the water course drains less than 50 acres, including drainage areas of any tributary to those water courses up to the point at which the tributary drains less than 50 acres; or
4. In Zone A, any structure with a height greater than 40 feet above existing grade.

“Master Plan” means the Delaware and Raritan Canal State Park Master Plan, as described at N.J.A.C. 7:45-1.4, consisting of the following six planning documents adopted by the Commission as the Master Plan including any modification, revision or amendment thereof subsequently adopted by the Commission pursuant to N.J.S.A. 13:13A-13:

1. Master Plan (May, 1989)
2. Design Guide (December, 1980)
3. Historic Structures Survey (June, 1982)
4. Historic Recreational Development Plan (September, 1984)
5. Development, Acquisition and Management Plan (January, 1996); and
6. Development Plan for the Delaware and Raritan Canal State Park: 2003-2013.

“Minor project” means:

1. Regarding Zone A, a project that is not a major project.
2. Regarding Zone B, only major projects are reviewed in Zone B.

“Mitigation” means action that is considered on a case-by-case basis for the potential loss of or potential adverse impact on a particular natural, historic or recreational resource. In general, mitigation should be similar in type and location to the resource proposed to be disturbed, destroyed, or otherwise adversely impacted. The Commission will, however, consider proposals for mitigation that differ in type and/or location from the impacted resource, provided the mitigation would more than offset the potential adverse impact and would contribute toward meeting the goals of the Master Plan and this chapter.

“Municipal approving agency” means any body or instrumentality of the municipality responsible for the approval of private projects or the issuance of permits, which shall include but not be limited to building permits, zoning variances, and excavation permits. “Municipal approving agency” shall include but not be limited to governing bodies, planning and zoning boards, construction officials, building inspectors, and municipal engineers.

“One hundred-year flood line” means the line that is formed by following the outside boundaries of the area inundated by a 100-year flood. A 100-year flood is estimated to have a one percent chance or one chance in 100, of being equaled or exceeded in any one year.

“Park” means the Delaware and Raritan Canal State Park as determined by the Department.

“Person” means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

“Pollutant” means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or any other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. “Pollutant” includes both hazardous and nonhazardous pollutants.

“Preserved land” means land that is permanently protected from development with a perpetual conservation or open space easement or fee ownership, held by a Federal, State, or local government or nonprofit conservancy organization, whereby such land is dedicated and bound to natural resource, forestry, wildlife, passive recreation, historic, cultural, or open space purposes, or to sustain water quality and natural resource values.

“Private project” means any proposed development, structure or land-use change requiring any municipal approval or permit, except interior alterations to an existing structure.

“Recharge” means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

“Review Zone” means that region designated by the Commission appertaining to and including the Park in which proposed projects may cause an adverse drainage, aesthetic or other ecological impact on the Park. The Review Zone includes subzones designated as Zone A and Zone B as follows:

1. Zone A is the area within 1,000 feet on either side of the center line of the Canal except in Princeton Township where the west bank of Carnegie Lake shall be the boundary of Zone A, and where the Raritan River is within 1,000 feet, its furthest bank being the boundary. If any part of a project site is within Zone A then the entire project shall be considered to be in Zone A; and
2. Zone B is the balance of the Review Zone.

The Review Zone is delineated on maps available for review at the Commission’s office in Stockton, New Jersey. It can also be viewed on the Department’s digital map at www.state.nj.us/dep. All or parts of the following counties and municipalities are included in the Review Zone:

In Hunterdon County: Delaware, East Amwell, Franklin, Kingwood, Lambertville, Raritan, Stockton, West Amwell.

In Mercer County: East Windsor, Ewing, Hamilton, Hightstown, Hopewell Borough, Hopewell Township, Lawrence, Pennington, Princeton Borough, Princeton Township, Trenton, Washington, West Windsor.

In Middlesex County: Cranbury, Monroe, New Brunswick, North Brunswick, Plainsboro, South Brunswick

In Monmouth County: Millstone.

In Somerset County: Franklin, Hillsborough, Manville, Millstone, Montgomery, Rocky Hill, South Bound Brook.

“Road” means a cartway for motorized vehicles that is under governmental jurisdiction.

“Sediment” means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

“Soil” means all unconsolidated mineral and organic material of any origin.

“Stormwater” means water resulting from precipitation that runs off the land’s surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities or conveyed by snow removal equipment.

“Stormwater management basin” means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

“Stormwater management measure” means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater.

“Stormwater runoff” means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

“Stream corridor” means any water course that flows into the Park, its tributaries, the 100-year floodplain associated with the water course and its tributaries, and all of the land within a 100-foot buffer adjacent to the 100-year flood line associated with the water courses and their tributaries. For any water course and its tributaries that discharge into the Canal, the stream corridor includes the water course and its tributaries, and either the 100-year floodplain associated with the water course and its tributaries and a 100 foot buffer adjacent to the 100-year flood line associated with the water course and its tributaries, or 300 feet along both sides of the water course or tributary, measured from the top of the water course’s banks, whichever is greater. A stream corridor starts from the point that the water course enters the Park, upstream to the point that the water course or its tributaries drain less than 50 acres.

“Structure” means any assembly of materials above or below the surface of land or water, including but not limited to, buildings, fences, signs, dams, fills, levees, bulkheads, dikes, jetties, causeways, culverts, roads, railroads, bridges and the facilities of any utility or governmental agency. Trees or other vegetation shall not be considered to be structures.

7:45-1.4 Master Plan of the Delaware and Raritan Canal State Park

- (a) The objectives of the Master Plan of the Delaware and Raritan Canal State Park are as follows:
1. The Delaware and Raritan Canal is a water supply system.
 - i. The integrity of the Canal as a structure that carries water must be protected.
 - ii. The quality of the water that enters the Canal—whether from a point source, overland flow of stormwater runoff, or from groundwater exchange—must be suitable for a source of drinking water.
 - iii. Other uses or development projects must be compatible with the need to operate and maintain the Canal as a water supply system.
 2. The Park is a site for recreational activities.
 - i. Recreational development should be aimed at encouraging the widest possible range of compatible recreational activities.
 - ii. The types of recreational activities to be encouraged depend upon the “Canal Environment” as designated in the Master Plan.
 - iii. Recreational development and access are to be allocated to all parts of the Park in order to avoid concentrating use at a few locations.
 - iv. Adjoining recreational resources should be connected to the Park for mutual enhancement. The development of additional recreational resources adjoining the Park is to be encouraged.
 3. The Park is a historic resource.
 - i. All repair, maintenance, and development work on the Canal and its associated structures should respect and enhance the historic character of the Park.
 - ii. The Park’s historic character is derived as much from the context through which the Canal flows as from the Canal’s structures. That context—the area that can be seen from the Canal and its towpath—should be preserved in a manner that reflects its historic nature.
 - iii. The role that the Canal played in the history of New Jersey should be interpreted for public edification.
 - iv. The Park should provide an appropriate context for nearby historic structures, landscapes, or sites.
 4. The Park is an area that should be maintained in its natural state.
 - i. The lands and water in the Park should be maintained to preserve wildlife habitats and the flourishing of natural vegetation communities.
 - ii. The Park should be a means of connecting other natural areas in the region, thereby enhancing their ability to function.
 - iii. Rare, endangered, or threatened species of plants and animals found in the park should be carefully preserved.
 - iv. Landscape materials used in the Park or used on adjoining lands should be native to the region and appropriate for their specific habitat.
 - v. The greatest possible variety of habitats for plants and animals should be preserved.
 - vi. The Park should serve as a migratory route for plants and animals.

5. The Park is a means of enhancing urban areas.
 - i. The recreational, historic, and natural conservation objectives are all applicable to urban areas through which the Canal flows and should be appropriately applied there.
 - ii. The Park should serve as a transportation route within urban areas for non-motorized vehicles and pedestrians.
 - iii. The Park should be both a boundary for urban neighborhoods and means of connection among them.
 - iv. The Park should be a means of connecting urban areas with recreational areas, historic sites, and natural areas in the region beyond the urban boundary.