Flood Hazard Area Control Act (FHACA) Regulations Permitting Guide for "Regulated Activity" in the Borough of Highlands

This Guide provides a summary of the more common regulations of the FHACA regarding the filing of "**Permits-by-registration**", "**General Permits-by certification**", and **"General Permits**" when filing for a Construction Permit under the *Uniform Construction Code* (UCC) for work that is considered a "Regulated Activity", as defined by the FHACA. These permits are **MANDATORY** and must be filed with the ***New Jersey Department of Environmental Protection*** (DEP) PRIOR to filing your UCC Construction Permit. A UCC CONSTRUCTION PERMIT WILL NOT BE ISSUED FOR A "REGULATED ACTIVITY" WITHOUT AUTHORIZATION FROM THE DEP.

IT IS HIGHLY RECOMMENDED YOU SEEK A QUALIFIED PROFESSIONAL IN OBTAINING ANY NECESSARY APPROVALS FROM THE DEP WHEN PERFORMING A REGULATED ACTIVITY.

"Regulated activity" or "activity" means an activity that is regulated pursuant to this chapter as described at N.J.A.C. 7:13-2.4. Some regulated activities, when performed in a certain manner or to a specified degree, are permitted-by-registration at N.J.A.C. 7:13-6 and 7. All regulated activities that are not permitted-by-registration require a general permit-by-certification pursuant to N.J.A.C. 7:13-6 and 8, a general permit pursuant to N.J.A.C. 7:13-6 and 9, an individual permit pursuant to N.J.A.C. 7:13-10, 11, and 12, an emergency authorization pursuant to N.J.A.C. 7:13-16, or a coastal permit pursuant to N.J.A.C. 7:7, prior to commencement.

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Permits-by-registration (N.J.A.C. 7:13-7)

Permits-by-registration are for certain activities that are minor in scope with little or no impact on flooding and the environment. The FHACA Rules include permits-by-registration for 30 activities.

- Prior to undertaking an activity authorized by a permit-by-registration, the owner of the site or a designated agent such as the person performing the work must register online with the DEP at https://dep.nj.gov/online/. The online registration process is free and simple to undertake, and requires basic information related to the project and site, such as the name, address, and contact information for the property owner and type of work being performed.
- Since no prior written authorization is required before undertaking eligible activities, each permit-by-registration is adopted with clearly defined limits provided at N.J.A.C. 7:13-7 as well as general conditions that must be met for each activity pursuant to N.J.A.C. 7:13-6.7.
- **The contractor or homeowner doing the work must provide a copy of the documentation provided by the DEP to both the Construction Official and Floodplain Administrator.**
- Some of the more common Uniform Construction Code projects include:
    - Replacement of a lawfully existing not-habitable *structure*
    - Construction of a non-habitable *building*
    - Construction of one or more partially-open structures with a roof, such as a car port, covered patio, or pole barn
    - Construction of Barrier Free Access to a building (handicap accessibility)
    - Construction of a deck
    - Construction of a fence
    - Construction of an inground residential swimming pool
    - Installation of an underground tank
    - Installation of solar system and related equipment

General Permits-by-Certification (N.J.A.C. 7:13-8)

General permits-by-certification are instant, online authorizations available for certain regulated activities that are more complex than activities that are eligible for a permit-by-registration and therefore require authorization through the DEP electronic permitting system at https://dep.nj.gov/online/ before they can be undertaken.

- These permits include specific limitations, which allow the automated issuance of an approval or rejection. No need for a case-by-case evaluation.
- General permit-by-certification must be filed by a licensed professional engineer or registered architect.
- **The agent must provide a copy of the documentation provided by the DEP to both the Construction Official and Floodplain Administrator.**
- Some of the more common Uniform Construction Code projects include:
  - Construction of an addition above or adjacent to a lawfully existing building
    - The lowest floor of adjacent additions must be constructed at least one foot above the climate-adjusted flood elevation and no lower than the elevation required pursuant to the Uniform Construction Code, N.J.A.C. 5:23
    - If the addition and other proposed improvements result in a "Substantial Improvement", the building must be made floodplain compliant
  - Elevation of a home
  - Construction of an aboveground residential swimming pool

General Permits (N.J.A.C. 7:13-9)

General Permits are reviewed by DEP staff, who review the proposed activity to ensure it meets the requirements of the specific general permit under which authorization is sought. After an activity is found to comply with a general permit, DEP staff issues a written authorization under that permit.

- An application for authorization under a general permit shall be submitted electronically through the Department's online system at https://nj.gov/dep/online, including all application information and supporting documentation.
- Some of the more common Uniform Construction Code projects include:
  - Construction of one single-family home or duplex, and one associated driveway
  - Installation of a ground mount solar system
- **The agent must provide a copy of the permit documentation provided by the DEP to both the Construction Official and Floodplain Administrator.**

If it is unclear whether a particular activity is regulated under the **Flood Hazard Area Control Act** rules, a person may request an applicability determination, which is an optional service NJDEP provides to anyone who wants a written determination of whether or not a flood hazard area permit or authorization is necessary. Applicability determinations are recommended when there is uncertainty as to whether an activity is regulated to avoid unintentionally undertaking unauthorized regulated activities and incurring potential liability. There is no fee for applicability determinations, and the procedure for requesting an applicability determination is provided at N.J.A.C. 7:13-2.6.

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