PERMITTING IN NEW JERSEY

KRISTOPHER J. KRZYSTON, CEI, CEM
Kristopher J. Krzyston

- Rutgers graduate – 1994
  B.S. Environmental Planning
  Certificate in G.I.S.
- Assistant Division Manager – Environmental Science Division
- Over 16 years experience in regulatory compliance.
- Responsible for management of all permitting and remedial activities for the firm.
NJDEP – DIVISION OF LAND USE REGULATION

- **REGULATIONS:**
  - COASTAL AREA FACILITIES REVIEW ACT (CAFRA)
  - WATERFRONT DEVELOPMENT
  - FRESHWATER WETLANDS
  - COASTAL WETLANDS
  - FLOOD HAZARD AREA
  - TIDELANDS

- **Other Agencies / Regulations to be discussed:**
  - NJ Pinelands Commission
  - Soil Erosion
CAFRA

- Regulates areas within the Coastal Zone - primarily from the southern limit of Middlesex County to the northern limit of Salem County within coastal areas.
• **Permit Types:**
  - **CAFRA Individual Permit** – regulates any development on a beach or dune, within 0 to 150 feet of the mean high water line (3 or more residential dwellings or 25 parking spaces or a public or industrial development), 0 to 500 feet of the mean high water line (25 or more residential dwellings or 50 parking spaces or a public or industrial development), and areas beyond 500 feet (75 or more residential dwellings or 150 parking spaces or a public or industrial development), within the designated CAFRA Zone.
CAFRA

– Coastal General Permit Provision:
  • Coastal GP 4 Long Branch Redevelopment Zone
  • Coastal GP 5 Amusement Pier Expansion
  • Coastal GP 6 Beach & Dune Maintenance Activities
  • Coastal GP 7 Voluntary Reconstruction of certain residential or commercial development
CAFRA

- Coastal GP8 for development of a single family home.
- Coastal GP9 for reconstruction or expansion of a single family home.
- Coastal GP 10 Construction of a bulkhead on a manmade lagoon
- Coastal GP 11 Construction of a revetment at a single family home or duplex.
- Coastal GP 12 Construction of gabions at a single family home or duplex
- Coastal GP 13 Construction of support facilities at legally existing and operating marinas.
- Coastal GP14 Reconstruction of a legally existing functioning bulkhead.
CAFRA

- Coastal GP 15 investigation, cleanup, removal or remediation of hazardous substances
- Coastal GP 16 landfall of utilities
- Coastal GP 17 Construction of recreational facilities at public parks
- Coastal GP 18 Bulkhead construction and placement of associated fill (natural water body)
- Coastal GP 19 Construction of piers, docks including jet ski ramps, pilings and boatlifts in man-made lagoons
- Coastal GP 20 Minor maintenance dredging in man-made lagoons
CAFRA

- Coastal GP 21 Stabilization of Eroded Shorelines
- Coastal GP 22 Avian nesting structures
- Coastal GP 23 Modification of existing electrical substations
- Coastal GP 24 Legalization of the filling of tidelands- prior to 1978
- Coastal GP 25 Construction of telecommunication towers
- Coastal GP 26 Construction of certain structures related to tourism at hotels / motels, commercial developments and multifamily developments over 75 units
- Coastal GP 27 Geotechnical Borings
- Coastal GP 29 for Habitat creation or enhancement activities
Waterfront Development

- Activities at or below the mean high water elevation require an in-water waterfront development permit.
- Activities above the mean high water elevation to a distance of 500 feet landward or to the first paved public road, railroad or surveyable property line that existed prior to September 26, 1980 require an upland waterfront development permit.
Freshwater Wetlands
Freshwater Wetlands

- Regulates all activities that take place within a State Open Water, Freshwater Wetland or Transition Area.
- Transition Areas:
  - Ordinary resource value – 0 foot transition area.
  - Intermediate resource value – 50 foot transition area
  - Exceptional resource value – 150 foot transition area
Freshwater Wetlands

• **Permit Types**
  – Individual Permit – regulates all activities in freshwater wetlands that do not comply with the General Permit Provisions or exceed 1 acre of impact.
  – Individual permits require mitigation – for example if you impact 3 acres of wetlands you have the option to create 6 acres (2:1) or to preserve 81 acres (27:1)
Freshwater Wetlands

- General Permits:
  - General permit 1 -- Maintenance and repair of existing features
  - General permit 2 -- Underground utility lines
  - General permit 3 -- Discharge of return water
  - General permit 4 -- Hazardous site investigation and cleanup
  - General permit 5 -- Landfill closures
  - General permit 6 -- Non-tributary wetlands
  - General permit 6A -- Transition areas adjacent to non-tributary wetlands
  - General permit 7 -- Human-made ditches or swales in headwaters
Freshwater Wetlands

- General permit 8--House additions
- General permit 9--Airport sight line clearing
- General permit 10A--Very minor road crossings
- General permit 10B--Minor road crossings
- General permit 11--Outfalls and intake structures
- General permit 12--Surveying and investigating
- General permit 13--Lake dredging
- General permit 14--Water monitoring devices
- General permit 15--Mosquito control activities
- General permit 16--Habitat creation and enhancement activities
Freshwater Wetlands

- General permit 17--Trails and boardwalks
- General permit 17A -- Non-Motorized, Multiple-use Paths
- General permit 18--Dam repair
- General permit 19--Docks and piers
- General permit 20--Bank stabilization
- General permit 21--Above ground utility lines
- General permit 23--Expansion of cranberry growing operations in the Pinelands
- General permit 24--Spring developments
Freshwater Wetlands

- General permit 25--Malfunctioning individual subsurface sewage disposal (septic) systems
- General permit 26--Minor channel or stream cleaning for local government agencies
- General permit 27--Redevelopment of previously disturbed areas
Transition Area Waivers

Types of Transition Area Waiver Provisions:
- Transition Area Averaging – ½ the width of the transition area and compensation onto an area not developed i.e. 50’ becomes 25’ for reduction and 50’ becomes 75’ for compensation.
- Special Activity Waiver for stormwater management, linear development or redevelopment.
- Individual Transition Area Waiver
- Matrix Type Reduction
- Hardship Transition Area Waiver
- General Permit Transition Area Waiver – Counts as impact towards your wetland threshold.
- Transition Area Waiver for Access (50 feet / 50 feet out)
Coastal Wetlands

- The Coastal Wetlands act of 1970 required the state to provide aerial mapping that depicts coastal wetland limits. All activities in Coastal Wetlands require a Coastal Wetlands Permit and mitigation at a 1 to 1 ratio.
- Wetlands immediately adjacent to mapped coastal wetlands are treated by the department as freshwater wetlands- often causing multiple permits i.e. freshwater wetland GP and a Coastal Wetland Permit.
Flood Hazard Areas

Courtesy of NJDEP
Flood Hazard Areas

- A flood hazard area exists along every regulated water that has a drainage area of 50 acres or more.
- A riparian zone exists along every regulated water, except there is no riparian zone along:
  - The Atlantic Ocean
  - Any manmade lagoon or stormwater management basin
  - Any oceanfront barrier island, spit or peninsula
  - Any piped section of an otherwise regulated water
Flood Hazard Areas

- The alteration of topography through excavation, grading and/or placement of fill;
- The clearing, cutting and/or removal of vegetation in a riparian zone;
- The creation of impervious surface;
- The storage of unsecured material;
- The construction, reconstruction and/or enlargement of a structure; and
- The conversion of a building into a private residence or a public building
Flood Hazard Areas

- Activities within the Flood Hazard area will require permits from the NJDEP.
- **Permit Types Include:**
  - Flood Hazard Area Individual Permit
  - Flood Hazard General Permit (s) consisting of:
    - General permit 1 for channel cleaning under the Stream Cleaning Act
    - General permits 2A through 2G for agricultural activities designed by the NRCS
    - General permit 3 for bridge or culvert scour protection by a public entity
    - General permit 4 for stormwater maintenance by a public entity
    - General permit 5 for the relocation of a building to reduce flood damage
Flood Hazard Area

- General permit 6 for the reconstruction of a damaged or destroyed residence
- General permit 7 for residential construction in a tidal flood hazard area
- General permit 8 for a utility line across or along a water with a drainage area of less than 50 acres
- General permit 9 for a roadway or footbridge across a water with a drainage area of less than 50 acres
- General permit 10 for stormwater outfall along a water with a drainage area of less than 50 acres
Tidelands

- Any activity taking place within areas designated by the NJDEP State owned tidelands will require a Tidelands Grant or interim License.
The Pinelands Commission regulates all activities within their jurisdiction under the Comprehensive Management Plan and Pinelands Protection Act.

All activities must obtain approval from the Commission prior to advancing to construction.

Applicants can submit for Public Development Application if they are in compliance with the CMP / PPA.

If the proposed project does not comply with the CMP/PPA, the applicant will be required to obtain a Memorandum of Agreement.
New Jersey Pinelands Commission
Soil Erosion and Sediment Control Act

- Any activity that disturbs more than 5,000 s.f. of soil will require a local Soil Erosion and Sediment Control Plan Certification.
- Any activity that disturbs more than 5 acres of land will require a New Jersey Pollutant Discharge Elimination System (NJDPES) Stormwater Permit.
- There are 15 Soil Conservation Districts in NJ
Questions / Comments

– In closing, please note that there other Federal and State agencies that have complex regulations. Agencies such as the ACOE, USEPA, Coast Guard, NJ Meadowlands, NJ Highlands and Delaware and Raritan Canal Commission which regulate land use activities through a formal application process.

– Thank You for your time – good luck on the exam!