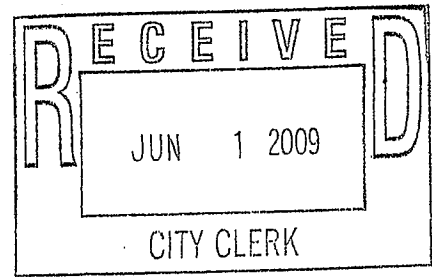




DELAWARE AND RARITAN
CANAL COMMISSION
MEMORANDUM



TO: Mayors, Planning Departments, Construction Officials, Municipal and County Clerks, and Other Interested Parties within the Delaware and Raritan Canal State Park's Review Zone

FROM: Ernest P. Hahn *EPH*
Executive Director

SUBJECT: Updated Regulations for the Delaware and Raritan Canal Commission

DATE: June 1, 2009

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On June 1, 2009, the Delaware and Raritan Canal Commission adopted new rules that will affect construction projects within the D&R Canal State Park Review Zone. I am writing to summarize the essence of our jurisdictional authority, and to highlight some of the rule changes. The following is not an inclusive list of all of the adopted changes.

Zone "A" jurisdiction: 1,000 feet on either side of the center line of the Canal. Any project needing any form of municipal approval (including but not limited to construction permits, zoning approvals, zoning variances, subdivision and site plan approvals) requires Commission approval before proceeding, except for projects that only modify the interior of existing buildings. Depending on the type of project, the Commission may review projects in Zone "A" for visual, stormwater, traffic and stream corridor impacts.

The new rules now authorize Commission staff to review and approve some specific types of projects, such as in-kind maintenance projects, instead of requiring formal action by the Commission. These "General Permits" will shorten the length of Commission review time.

Zone "B" jurisdiction: Hydrologic Unit Code 14 drainage areas that enter the Canal Park. Both Zones "A" and "B" are on NJDEP's I-Map website:
<http://www.nj.gov/dep/gis/dep splash/htm>

The Commission's jurisdiction for private projects in Zone "B" is tied to two factors – the first being the requisite need for a municipal approval as outlined above. The second factor is impervious surface. Previously, projects requiring both municipal approval and resulting in a cumulative total of over one acre of impervious cover since 1980 were regulated by the Commission. The new rules have revised thresholds. Private projects in

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
Jon Corzine, Governor Mark N. Mauriello, Acting Commissioner

Zone B requiring a municipal approval will require Commission approval if, since 1980, the project involves:

1. the cumulative coverage of $\frac{1}{4}$ acre of impervious surface,
2. the disturbance of 1 acre of land, or
3. the disturbance of $\frac{1}{2}$ acre of existing impervious surface or significantly disturbed areas if the project drains into the canal or is located within a drainage area of a water course that discharges into the canal.

The following are examples of this jurisdiction:

Example 1. A house in Zone B was built on a 10-acre property prior to 1980. The owner proposes to subdivide the property into two lots with the existing house on one lot, and to construct a new house on the second lot. The new house and all associated impervious cover (driveway, patio, pool, etc) is under $\frac{1}{4}$ acre, will disturb less than 1 acre of land, and the site does not drain to the Canal or a stream that discharges to the Canal. This project would be exempt from the Commission's new regulations.

Example 2. A large subdivision and associated residential development was built after 1980 in Zone B. The development resulted in over $\frac{1}{4}$ acre of impervious cover and was regulated and approved by the Commission. The current owner of one of the houses now proposes construction that requires municipal approval and results in additional impervious cover. This project would be regulated by the Commission because the threshold of $\frac{1}{4}$ acre of impervious cover was exceeded by the original development.

Example 3. A homeowner in Zone B proposes to replace the roof and windows on their house. This project is not regulated by the Commission because it will not result in any additional impervious cover.

Stormwater Runoff and Water Quality Impact Review: The Commission has revised this aspect of its regulations to more closely align with the Department of Environmental Protection's rules for stormwater. In addition, projects involving existing or new outfalls directly discharging to the canal or streams discharging to the canal have revised standards.

Stream Corridor Impact Review: The definition of a stream corridor within the Commission's Review Zone has changed. The size of the stream remains the same (at the point where it drains 50 acres or more). However, for those streams that directly discharge to the canal, the scope of their buffers has changed to either 100 feet from the 100-year floodplain, or 300 feet from top of bank, whichever is greater. For those streams that drain to the Park but not directly to the canal, the buffer remains 100 feet from the 100-year floodplain.

The definition for stream corridor thus includes all streams that both flow into the park as well as directly discharge to the canal. This has resulted in an inclusion of some streams in the Review Zone that were not formerly regulated by the Commission.

Fees: In 2007, the Legislature mandated that the Commission require fees for its review of projects. As of June 1, 2009, the Commission will be charging fees based on the attached fee schedule.

The new Regulations are available on our website, www.dandrcanal.com. For any questions regarding the changes, call our office at 609-397-3354 or email me at ernesthahn@comcast.net.