

THIS IS A COURTESY COPY OF THIS NOTICE. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE SEPTEMBER 8, 2015 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE NOTICE, THE OFFICIAL VERSION WILL GOVERN.

ENVIRONMENTAL PROTECTION

LAND USE MANAGEMENT

Notice of Readoption

Freshwater Wetlands Protection Act Rules

Readoption: N.J.A.C. 7:7A

Authority: N.J.S.A. 13:9B-1 et seq. and 58:10A-1 et seq.

Authorized By: Bob Martin, Commissioner, Department of Environmental Protection.

Effective Date: August 5, 2015.

New Expiration Date: August 5, 2022.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A are readopted and shall continue in effect for a seven-year period. The rules had been scheduled to expire on September 4, 2015. The Department of Environmental Protection (Department) has reviewed these rules and has determined that the rules should be readopted because they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c, timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The Freshwater Wetlands Protection Act Rules implement the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., in order to protect the purity and integrity of the State's inland waterways and freshwater wetlands from random, unnecessary, or undesirable alteration or disturbance and to provide predictability in the protection of freshwater wetland resources. See N.J.S.A. 13:9B-2. The Freshwater Wetland Protection Act Rules are the standards for reviewing freshwater wetland and open water fill permit applications, transition area waiver applications and applications for water quality certificates issued pursuant to Section 401 of the

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Federal Clean Water Act, 33 U.S.C. §§ 1341. The rules regulate the following activities when conducted in a freshwater wetland: the removal, excavation, disturbance, or dredging of soil, sand, gravel, or aggregate; the drainage or disturbance of the water level or water table; the dumping, discharging, or filling with any materials; the driving of pilings; the placing of obstructions; and the destruction of plant life which would alter the character of a freshwater wetland, including the cutting of trees. The rules also regulate the following activities in transition areas: the removal, excavation, or disturbance of soil; the dumping or filling with any materials; the erection of structures; the placement of pavement; and the destruction of plant life that would alter the existing pattern of vegetation within a wetland transition area. In addition, the Freshwater Wetland Protection Act Rules provide the standards used by the Department for the review of requests for Letters of Interpretation which reflect the Department's findings regarding the presence or absence of wetlands, State open waters, and/or transition areas; the boundaries of freshwater wetlands, State open waters, and/or transition areas; and/or the resource value classification of wetlands.

On July 6, 2015, the Department adopted the consolidation of the Coastal Permit Program Rules and Coastal Zone Management Rules into one chapter, the Coastal Zone Management rules, codified at N.J.A.C. 7:7, establishing a comprehensive and streamlined set of rules governing land use in the coastal zone (see 46 N.J.R. 1051(a); June 2, 2014, and 47 N.J.R. 1392(a); July 6, 2015). Further, on June 1, 2015, the Department proposed comprehensive amendments to the Flood Hazard Area Control Act rules to reduce unnecessary regulatory burden, add appropriate flexibility, provide better consistency with Federal, local, and other State requirements, and address implementation issues identified since the chapter's repeal and repromulgation in November 2007 (see 47 N.J.R. 1041(a); June 1, 2015). As indicated in these

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rulemakings, the Department intends to propose amendments to the Freshwater Wetlands

Protection Act Rules as part of an effort to align the rules governing the permitting processes of

the coastal, flood hazard area, and freshwater wetlands permitting programs to the extent the

respective enabling statutes allow. Those and other proposed amendments to the Freshwater

Wetlands Protection Act Rules will be the subject of a separate notice in the New Jersey

Register.