

## **NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

### **Coastal Management Office**

#### **Notice of Incorporation of Enforceable State Policies Developed Pursuant to the Federal Clean Water Act into Coastal Management Program and Notice of Request for approval of Routine Program Change for Coastal Management Program**

Take Notice that the Department of Environmental Protection (Department), has incorporated the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A Subchapters 1, 2, 5, 6, 11, 12, 13, 15, 16, 18, 19, 20, 21, 24 and 25 and the Stormwater Management rules, N.J.A.C. 7:8, into New Jersey's Federally approved Coastal Management Program. Take further Notice that the Department is seeking approval from the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management to incorporate various amendments to the Coastal Zone Management rules, N.J.A.C. 7:7E, that occurred between December 7, 1998 through February 2, 2004 as routine program changes to the Coastal Management Program and providing notice of the opportunity to comment on its request to make these amendments to the New Jersey Coastal Management Program through routine program change.

#### **NJPDES and Stormwater Management**

Pursuant to Section 307(f) of the Coastal Zone Management Act, 16 U.S.C. 1456(f), the Department has incorporated the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A Subchapters 1, 2, 5, 6, 11, 12, 13, 15, 16, 18, 19, 20, 21, 24 and 25, and the Stormwater Management rules, N.J.A.C. 7:8, into New Jersey's Federally approved Coastal Management Program. The incorporation of the NJPDES rules was effective April 13, 1982, the date the State NPDES Permit Program, Pretreatment Program, and State regulation of Federal facilities were approved by EPA, and the Stormwater Management rule, February 2, 2004, the date the rules were adopted.

Section 307(f) of the Coastal Zone Management Act provides that requirements established by the Federal government and a state or local government pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., (commonly known as the Clean Water Act) and the Clean Air Act, 42 U.S.C. 7401 et seq., shall be incorporated

into any program developed pursuant to the Coastal Zone Management Act. The National Pollutant Discharge Elimination System permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Section 402(b) of the Clean Water Act provides the Governor of any State can apply to the Administrator of the Environmental Protection Agency to administer the NPDES Program in the State. On April 13, 1982, the State NPDES Permit Program, Pretreatment Program, and State regulation of Federal facilities were approved by EPA. The incorporated rules at N.J.A.C. 7:14A referenced above were adopted March 6, 1981 and amended through September 19, 2005.

One important and recently revised component of the NJPDES Program is the Statewide Stormwater Permitting Program. New Jersey's NJPDES Statewide Stormwater Permitting Program was established pursuant to the 1987 amendments to the Clean Water Act (CWA). Congress added Section 402(p) to the CWA in 1987 to establish a comprehensive framework for addressing certain stormwater discharges to surface waters. The Department develops and administers the Statewide Stormwater Permitting Program within the framework of Section 402(p) of the CWA, 33 U.S.C. 1342(p), and related provisions of the NPDES rules, 40 C.F.R. 122, 123 and 124.

Discharges regulated under the NJPDES Stormwater Permitting Program include many industrial and construction site stormwater discharges, and many "municipal" (that is, publicly owned or operated) stormwater discharges. These "municipal" systems include separate storm sewer systems owned or operated by county, State, interstate, and Federal agencies at facilities that the NJPDES stormwater rules refer to as "public complexes," and at "highways and other thoroughfares." The Department revised its NJPDES stormwater rules on several occasions between 1992 and 2004 to implement NPDES Phase I and Phase II NPDES Stormwater Permit rules promulgated by USEPA under Section 402(p) of the CWA.

The Stormwater Management rules, N.J.A.C. 7:8, implement certain requirements of the Federal NPDES Phase II Stormwater Permit rules and NJPDES stormwater rules, and also establish design and performance standards for stormwater management measures. Compliance with these standards is required by the Coastal Zone Management rules at N.J.A.C. 7:7E-8.7. Specifically, the Stormwater Management rules set forth the required

components of regional and municipal stormwater management plans, and establish the stormwater management design and performance standards for new development. The design and performance standards for new development include groundwater recharge, runoff quantity controls, runoff quality controls, and the establishment of special water resource protection areas to protect pristine and exceptional water values.

### **Coastal Zone Management rules amendments**

The Department, pursuant to 15 C.F.R. 923.80-923.84, is proposing to amend New Jersey's Federally approved Coastal Management Program to incorporate various amendments and additions to the Coastal Zone Management rules, N.J.A.C. 7:7E, that occurred between December 7, 1998 and February 2, 2004 as listed below.

(A) Adopted Regulatory amendments to the Coastal Zone Management rules, N.J.A.C. 7:7E

Purpose and scope, N.J.A.C. 7:7E-1.1; Jurisdiction, N.J.A.C. 7:7E-1.2; Coastal decision-making process, N.J.A.C. 7:7E-1.5; Mitigation, N.J.A.C. 7:7E-1.6; Purpose and scope, N.J.A.C. 7:7E-3.1; Prime fishing areas, N.J.A.C. 7:7E-3.4; Finfish migratory pathways, N.J.A.C. 7:7E-3.5; Submerged vegetation habitat, N.J.A.C. 7:7E-3.6; Canals, N.J.A.C. 7:7E-3.8; Marina moorings, N.J.A.C. 7:7E-3.10; Wet borrow pits, N.J.A.C. 7:7E-3.14; Intertidal and subtidal shallows, N.J.A.C. 7:7E-3.15; Dunes, N.J.A.C. 7:7E-3.16; Overwash areas, N.J.A.C. 7:7E-3.17; Coastal high hazard areas, N.J.A.C. 7:7E-3.18; Erosion hazard areas, N.J.A.C. 7:7E-3.19; Barrier islands, N.J.A.C. 7:7E-3.20; Bay islands, N.J.A.C. 7:7E-3.21; Beaches, N.J.A.C. 7:7E-3.22; Filled water's edge, N.J.A.C. 7:7E-3.23; Existing lagoon edges, N.J.A.C. 7:7E-3.24; Flood hazard areas, N.J.A.C. 7:7E-3.25; Wetlands, N.J.A.C. 7:7E-3.27; Coastal bluffs, N.J.A.C. 7:7E-3.31; Steep slopes, N.J.A.C. 7:7E-3.34; Dry borrow pits, N.J.A.C. 7:7E-3.35; Specimen trees, N.J.A.C. 7:7E-3.37; Public open space, N.J.A.C. 7:7E-3.40; Special hazard areas, N.J.A.C. 7:7E-3.41; Excluded federal lands, N.J.A.C. 7:7E-3.42; Special urban areas, N.J.A.C. 7:7E-3.43; Pinelands National Reserve and Pinelands Protection Area, N.J.A.C. 7:7E-3.44; Hackensack Meadowlands District, N.J.A.C. 7:7E-3.45; Geodetic control reference marks, N.J.A.C. 7:7E-3.47; Hudson River waterfront area, N.J.A.C. 7:7E-3.48; Standards

applicable to routine beach maintenance, N.J.A.C. 7:7E-3A.2; Standards applicable to emergency post-storm beach restoration, N.J.A.C. 7:7E-3A.3; Standards applicable to dune creation and maintenance, N.J.A.C. 7:7E-3A.4; Standards applicable to boardwalks, N.J.A.C. 7:7E-3A.5; Tidal wetland and intertidal and subtidal shallows mitigation proposal requirements, N.J.A.C. 7:7E-3B.2; Purpose and scope, N.J.A.C. 7:7E-7.1; Housing use, N.J.A.C. 7:7E-7.2; Resort/recreational use, N.J.A.C. 7:7E-7.3; Marina development, N.J.A.C. 7:7E-7.3A; Energy use, N.J.A.C. 7:7E-7.4; Transportation use, N.J.A.C. 7:7E-7.5; Public facility use, N.J.A.C. 7:7E-7.6; Industry use, N.J.A.C. 7:7E-7.7; Port use, N.J.A.C. 7:7E-7.9; Commercial facility use, N.J.A.C. 7:7E-7.10; Coastal engineering, N.J.A.C. 7:7E-7.11; National defense facility use, N.J.A.C. 7:7E-7.13; High-rise structures, N.J.A.C. 7:7E-7.14; and Purpose and scope, N.J.A.C. 7:7E-8.1; Surface water use, N.J.A.C. 7:7E-8.5; Stormwater management, N.J.A.C. 7:7E-8.7; Vegetation, N.J.A.C. 7:7E-8.8; Air quality, N.J.A.C. 7:7E-8.10; Public access to the waterfront, N.J.A.C. 7:7E-8.11; Buffers and compatibility of uses, N.J.A.C. 7:7E-8.13; and Traffic, N.J.A.C. 7:7E-8.14. (See 29 N.J.R. 3920(a); 30 N.J.R. 645(a); 30 N.J.R. 1679(a); 30 N.J.R. 4210(b); 31 N.J.R. 2042(a); 32 N.J.R. 503(a); 32 N.J.R. 864(a); 32 N.J.R. 3784(b); 34 N.J.R. 74(a); 35 N.J.R. 632(a); 35 N.J.R. 2801(a); 36 N.J.R. 442(a); 35 N.J.R. 119(a); 35 N.J.R. 1328(a); and 36 N.J.R. 670(a))

(B) Adopted New Rules:

Correspondence with the Department, N.J.A.C. 7:7E-1.7; Definitions, N.J.A.C. 7:7E-1.8; Atlantic City, N.J.A.C. 7:7E-3.49; Standards for beach and dune activities: Purpose and scope, N.J.A.C. 7:7E-3A.1; Information required in tidal wetland and intertidal and subtidal shallows mitigation proposals: Purpose and scope, N.J.A.C. 7:7E-3B.1; Financial assurance, N.J.A.C. 7:7E-3B.3; Department review of mitigation proposal, N.J.A.C. 7:7E-3B.4; Post-construction monitoring of the mitigation site, N.J.A.C. 7:7E-3B.5; Solid and hazardous waste, N.J.A.C. 7:7E-8.22. (See 31 N.J.R. 2042(a); 32 N.J.R. 503(a); 34 N.J.R. 74(a); 35 N.J.R. 632(a))

The Department considers the above amendments to constitute a “Routine Program Change” of the New Jersey Coastal Management Program. Under 15 C.F.R. 923.84(a),

changes to an approved coastal management program constitute Routine Program Change when they do not result in the kind of amendments of the state's Coastal Management Program that can be described as "substantial changes to enforceable policies or authorities related to: (1) uses subject to management; (2) special management areas; (3) boundaries; (4) authorities and organization; and, (5) coordination, public involvement and national interest."

Federal regulations mandate that the State provide public notice of its Routine Program Change of the State's Coastal Management Program to the general public, affected parties, local and State agencies and regulatory offices, and relevant Federal agencies.

The Department has submitted a request for concurrence of the Office of Ocean and Coastal Resource Management in the National Oceanic and Atmospheric Administration (NOAA) in the determination that the incorporation of the above listed amendments to the Coastal Zone Management rules into New Jersey's Federally approved Coastal Management Program constitutes a Routine Program Change. This notice is required to accompany that submission pursuant to 15 CFR 923.84. Comments on whether or not the proposed incorporation of these amendments into New Jersey's Coastal Management Program should be considered Routine Program Change should be sent to the address below by Monday, February 27, 2006.

National Oceanic and Atmospheric Administration  
Office of Ocean and Coastal Resource Management  
Attn: Ms. Kris Wall  
SSMC4 N/ORM3 Rm. 11211  
1305 East West Highway  
Silver Spring, MD 20910

The routine program change package may be viewed on the Coastal Management Program's website at [www.nj.gov/dep/cmp/czm\\_news.html](http://www.nj.gov/dep/cmp/czm_news.html). A hard copy of the routine program package is available from:

New Jersey Department of Environmental Protection  
Coastal Management Office  
Attn.: Ms. Ann Marie Hoagland  
PO Box 418  
Trenton, NJ 08625-0418  
(609) 633-2201

For further information about the above described rulemaking actions, write or call:

New Jersey Department of Environmental Protection  
Coastal Management Office  
Attn.: Ms. Kimberly Springer  
PO Box 418  
Trenton, New Jersey 08625-0418  
(609) 633-2201

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Date

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Ruth E. Ehinger, New Jersey Coastal Program Manager  
Coastal Management Office