

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
Coastal Management Office
Notice of Determination on Routine Program Change to the Coastal Management Program

Take Notice that the National Oceanic and Atmospheric Administration's (NOAA) Office of Ocean and Coastal Resource Management has, by letter dated March 2, 2006, approved changes to New Jersey's Federally approved Coastal Management Program (see 38 N.J.R. 1086(a); February 6, 2006). The New Jersey Coastal Management Program has been changed to incorporate: (1) 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; (2) the Stormwater Management rules, N.J.A.C. 7:8; and (3) various amendments to the Coastal Zone Management rules, N.J.A.C. 7:7E, that occurred between December 7, 1998 through February 2, 2004. Federal Consistency requirements of the CZMA apply to the approved provisions as of the date of publication of this notice.

Pursuant to the requirements of 15 CFR 923, changes to the Coastal Management Program must be approved by NOAA. On February 6, 2006 the Department submitted to NOAA a request for concurrence with the Department's determination that incorporation of the above listed regulations into New Jersey's Coastal Management Program constitutes a routine program change (see 38 N.J.R. 1086(a); February 6, 2006). 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." NOAA requested comments on whether the change should be considered a routine program change. Two comments supporting inclusion of the above listed regulations into New Jersey's Coastal Management Program were submitted.

NOAA has concurred with the Department's determination that the specific rulemaking actions listed below which occurred between December 7, 1998 and February 2, 2004, constitute a routine program change:

(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(a), (b) and (e)-(r)*; 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))

* The New Jersey Coastal Management Program did not seek to incorporate changes to the Liquefied Natural Gas (LNG) section, N.J.A.C. 7:7E-7.4(s) of the rules at this time. The New Jersey Coastal Management Program is awaiting guidance from OCRM on the impact of the Energy Policy Act of 2005 on the State's ability to incorporate and apply LNG siting specific policies to LNG projects under the Natural Gas Act. Therefore, the changes to N.J.A.C. 7:7E-7.4(s) are not enforceable policies of the New Jersey Coastal Management Program.

(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)).