

Notice of Program Change for Coastal Management Program

Take notice that the Department of Environmental Protection (Department) is seeking approval from the National Oceanic and Atmospheric Administration's Office of Coastal Management (NOAA) to modify the Federally approved New Jersey Coastal Management Program (NJCMP) to reflect a change in administration of the program. The change was initiated by the Commissioner of the New Jersey Department of Environmental Protection (NJDEP). The NJCMP is now administered by the Office of Climate Resilience (OCR) in the Commissioner's Office of NJDEP. This change is considered minor in scope pursuant to 15 CFR 923.82(c).

Of a more substantial nature, the Department is seeking approval from NOAA to modify the Federally approved NJCMP to incorporate the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50) and the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13-1.1 et seq.) which implements this Act. A summary of the proposed changes to the NJCMP follows.

The Flood Hazard Area Control Act (N.J.S.A. 58:16A-50) was adopted by the New Jersey Legislature on January 30, 1980, and became effective on January 31, 1980. The Flood Hazard Area Control Act Rules (N.J.A.C. 7:13-1.1 et seq.) implement this Act. New Jersey's Coastal Zone Management Program has been referencing the FHACA rules for many years. However, before 2007, the FHACA rules only applied in very few inland portions of the areas governed under the Coastal Area Facilities Review Act (CAFRA) since very few of the waterways in the inland portion of the CAFRA zone occur above the head of tide. In 2007, in addition to the riparian rule provisions of the FHACA rules, previously approved as part of the NJCMP, the FHACA rules began to regulate not only fluvial flood hazard areas but also tidal (coastal) flood hazard areas to ensure construction standards would be, and are, applied with greater consistency. More recently, on July 17, 2023, the FHACA rules were again amended with what are commonly referred to as the "Inland Flood Protection Rules" or IFPR. These rules also apply to the coastal zone.

Therefore, while previously, portions of the FHACA rules were incorporated into NJCMP, at this time the NJDEP is requesting that NOAA approve as a program change the incorporation of the entire adopted and effective Flood Hazard Area Control Act and implementing rules into the NJCMP because the IFPR provisions are an integral part of the FHACA rules, and cannot be incorporated, or function independently of the FHACA rules as a whole.

The substantive changes to be incorporated into the NJCMP fit within subpart C, changes to Special Management Areas. In accordance with 15 CFR Part 923 Subpart C, the Flood Hazard Area, to which the rule amendments apply is, by definition, an area where, if development were permitted, would be subject to significant hazard due to storms, floods, and erosion. Additionally, such areas are needed to "protect, maintain or replenish coastal lands or resources including coastal flood plains, aquifers and their recharge areas, estuaries, sand dunes, coral and other reefs, beaches, offshore sand deposits and mangrove stands." See 15 CFR Part 923.21(b).

Federal regulations require that the State provide public notice of its program change to 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 the concurrence of NOAA with the Department's program change. This notice is required to accompany that submission pursuant to 15 CFR 923.81(e). The change submittal to NOAA is available on the Department's Coastal Management Program website at www.nj.gov/dep/cmp/czm_news or under file number NJ-2024-1 at www.coast.noaa.gov/czmprogramchange/#/public/home. To receive a copy of the change request materials in hard copy, please e-mail DEPWLMProgramDevelopment@dep.nj.gov –include your name and address.

Any comments on this program change to the State's approved Coastal Management Program should be submitted directly to the NOAA Office of Coastal Management on NOAA's Program Change website under File Number NJ-2024-1 at: www.coast.noaa.gov/czmprogramchange/#/public/home.