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ENVIRONMENTAL PROTECTION

WATERSHED AND LAND MANAGEMENT

DIVISION OF LAND RESOURCE PROTECTION

Notice of Readoption

Flood Hazard Area Control Act Rules

Readoption: N.J.A.C. 7:13

Authority: N.J.S.A. 13:1D-1 et seq., 13:1D-29 et seq., specifically 13:1D-33, 13:20-1 et seq., 58:10A-1 et seq., 58:11A-1 et seq., and 58:16A-50 et seq.

Authorized By: Shawn M. LaTourette, Commissioner, Department of Environmental Protection.

Effective Date: July 8, 2021.

New Expiration Date: July 8, 2028.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1, the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13 are readopted and shall continue in effect for a seven-year period. The rules were scheduled to expire on October 6, 2021. The Department of Environmental Protection (Department) has reviewed these rules and has determined that the rules should be readopted without change 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(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The Flood Hazard Area Control Act Rules implement the New Jersey Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., and the mandate to “adopt land use regulations for the flood hazard area, to control stream encroachments, to coordinate effectively the development, dissemination, and use of information on floods and flood damages that may be available, to

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authorize the delegation of certain administrative and enforcement functions to county governing bodies and to integrate the flood control activities of the municipal, county, State and Federal Governments” (N.J.S.A. 58:16A-50.b). Unless properly controlled, development within flood hazard areas can exacerbate the intensity and frequency of flooding by reducing flood storage, increasing stormwater runoff, and obstructing the movement of floodwaters. In addition, structures that are improperly built in flood hazard areas are subject to flood damage and threaten the health, safety, and welfare of those who use them. Furthermore, healthy vegetation adjacent to surface waters is essential for maintaining bank stability and water quality. The indiscriminate disturbance of such vegetation can destabilize channels, leading to increased erosion and sedimentation that exacerbates the intensity and frequency of flooding. The loss of vegetation adjacent to surface waters also reduces filtration of stormwater runoff and, thus, degrades the quality of these waters. The Flood Hazard Area Control Act Rules, therefore, incorporate standards for development in flood hazard areas and adjacent to surface waters in order to mitigate the adverse impacts to flooding and the environment that can be caused by such development.

On January 27, 2020, Governor Murphy issued Executive Order No. 100 (2020) (EO No. 100). This order directed the Department to develop rules consistent with applicable law to address climate change, with those regulatory changes to be known as New Jersey’s Protecting Against Climate Threats (NJPACT) rules. On the same day, then Department Commissioner Catherine McCabe issued Administrative Order No. 2020-01 (AO No. 2020-01) requiring the incorporation of climate change considerations including, but not limited to, sea level rise and chronic flooding into the Department’s rules, as part of an effort entitled Resilient Environments and Landscapes (REAL) that includes the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13,

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among other land use rules. In accordance with EO No. 100 and AO No. 2020-01, the Department is finalizing a proposal of amendments to the Flood Hazard Area Control Act Rules. The readoption of the rules without change continues the chapter in effect while the proposed amendments are finalized. The proposal of amendments to the Flood Hazard Area Control Act Rules will be the subject of a separate notice in the New Jersey Register.