

THIS IS A COURTESY COPY OF THIS NOTICE. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE MAY 16, 2022 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**

### **Watershed and Land Management**

#### **Division of Land Resource Protection**

##### **Freshwater Wetlands Protection Act Rules**

Readoption: N.J.A.C. 7:7A without change

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

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

Effective Date: April 12, 2022

New Expiration Date: April 12, 2029

**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 August 5, 2022. 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

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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 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 that 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 January 27, 2020, Governor Murphy issued Executive Order No. 100 (2020) ("EO No. 100"). This order directed the Department to develop regulations 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 regulations, as part of an effort entitled

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Resilient Environments and Landscapes (“REAL”), which includes the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A, among other land use regulations. In accordance with EO No. 100 and AO No. 2020-01, the Department is finalizing a proposal of amendments to the Freshwater Wetlands Protection 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 Freshwater Wetlands Protection Act Rules will be the subject of a separate notice in the New Jersey Register.