

| AUGUST 2023 |

REGULATORY UPDATE: NJDEP INLAND FLOOD PROTECTION RULE ADOPTION – JULY 2023

The Flood Hazard Area Control Act Rules (NJAC 7:13) and Stormwater Management Rules (NJAC 7:8), collectively referred to as the Inland Flood Protection Rules, were readopted on July 17, 2023 to address recent flooding in the State as part of a regulatory reform effort known as NJ PACT (New Jersey Protecting Against Climate Threats). Key components of this adoption include:

- The regulated flood hazard area is defined now at the NJDEP-mapped flood hazard elevation +2 feet or the FEMA 100-year flood elevations +3 feet.
- Determining the flood hazard area elevation by calculation now requires the use of 2100 rainfall data.
- The rules continue to require compliance with the 0% net fill standards. Higher flood elevations will present an even more significant hurdle for NJDEP approval for certain sites.
- Applicants must now evaluate both 2019 and 2100 rainfall data in their stormwater compliance calculations.
- Stormwater management basins will be larger in size based on the use of projected rainfall data, which will result in less area to develop onsite.

Some projects may be grandfathered as per the following.

Flood Hazard Area Control Act Rules (NJAC 7:13)

Project subject to the rules in effect prior to the readoption as follows:

- Regulated activity is part of a project that has a valid FHA permit
- Regulated activity is part of a project that needs an FHA permit, and a **complete** FHA application is submitted to the NJDEP for review prior to the effective date of the “new” Rules
- Regulated activity is part of a project that did not need an FHA permit prior to the rulemaking and was authorized under certain approvals pursuant to the Municipal Land Use Law prior to July 17, 2023 (i.e., preliminary or final site plan approval, amongst others) or approval under the MLUL is not required and construction has commenced prior to July 17, 2023.
 - Construction = first placement of permanent construction of a structure (pouring of slab or footings, installation of piles, etc.; subsurface improvements for a roadway)

Stormwater Management Rules (N.J.A.C. 7:8)

Project subject to the rules in effect on March 2, 2021 as follows:

- Major development that **does not** require a permit from NJDEP: Complete application submitted to the municipality prior to the effective date of the “new” rules
- Major development that **does** require a permit from NJDEP: Technically complete application submitted to the NJDEP prior to the effective date of the “new” rules

To discuss this matter and how it may impact your projects, please contact your Langan Project Manager or:



Gregg Woodruff, PP, AICP, LEED AP BD+C
Associate Principal/Sustainability Leader
gwoodruff@langan.com
973.560.4498



Kelly McCormick, PWS,
LEED AP
Associate
kmccormick@langan.com
973.560.4590



Robert March, PWS
Senior Project Scientist
rmarch@langan.com
973.560.4427