

ASSEMBLY, No. 1726

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

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SYNOPSIS

Amends "Flood Hazard Area Control Act" to require DEP to take certain actions concerning delineations of flood hazard areas and floodways.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/21/2014)

1 AN ACT concerning mapping of flood hazard areas and amending
2 P.L.1962, c.19.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 3 of P.L.1962, c.19 (C.58:16A-52) is amended to
8 read as follows:

9 3. a. The department shall study the nature and extent of the
10 areas affected by flooding in the State. After public hearing upon
11 notice, and pursuant to the “Administrative Procedure Act,”
12 P.L.1968, c.410 (C.52:14B-1 et seq.), the department shall adopt
13 rules and regulations which delineate as flood hazard areas such
14 areas as, in the judgment of the department, the improper
15 development and use of which would constitute a threat to the
16 safety, health, and general welfare from flooding. **[Such]** These
17 delineations shall identify the various subportions of the flood
18 hazard area for reasonable and proper use according to relative risk,
19 including the delineation of floodways necessary to preserve the
20 flood carrying capacity of natural streams. The department shall
21 update delineations of flood hazard areas as appropriate as provided
22 in subsection b. of this section. At a minimum, the department shall
23 update its delineations of flood hazard areas at least once every 15
24 years. The department may, after public hearing upon notice and
25 pursuant to the **[aforecited]** “Administrative Procedure Act,”
26 revoke, amend, alter, or modify such regulations if in its judgment
27 the public interest so warrants.

28 b. (1) The department shall wherever practicable, make
29 floodway delineations identical to the floodway delineations
30 approved by the **[Federal Government]** Federal Emergency
31 Management Agency for the National Flood Insurance Program.
32 Immediately upon adoption of a floodway delineation approved by
33 the Federal Emergency Management Agency for the National Flood
34 Insurance Program, the department shall include the federal
35 floodway delineation into the department’s flood hazard area
36 delineation for that watercourse, provided that the department has
37 determined that the federal floodway delineation is sufficient to
38 carry and discharge the flood flow of the watercourse.

39 (2) Notwithstanding any other provision of law, or rule or
40 regulation adopted pursuant thereto, to the contrary, a person shall
41 apply for a permit or other approval or authorization issued by the
42 department pursuant to the “Flood Hazard Area Control Act,”
43 P.L.1962, c.19 (C.58:16A-50 et seq.), for a site based upon a
44 floodway delineation approved by the Federal Emergency
45 Management Agency for the National Flood Insurance Program.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 provided that (a) the federal floodway delineation is more recent
2 than the department's delineation for the same watercourse, and (b)
3 the department has determined that the federal floodway delineation
4 is sufficient to carry and discharge the flood flow of the
5 watercourse and is at least as protective of the public safety, health,
6 and general welfare as the department's delineation.

7 c. The department shall establish a procedure for reducing any
8 delineated flood hazard area when a change has been made which
9 increases the flood carrying capacity of the concerned stream at that
10 location.

11 (cf: P.L.1979, c.359, s.4)

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13 2. This act shall take effect immediately.

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STATEMENT

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18 This bill makes certain changes to the "Flood Hazard Area
19 Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), to direct the
20 Department of Environmental Protection (DEP) to take certain
21 actions concerning delineations of flood hazard areas and floodways
22 in this State.

23 Currently, the "Flood Hazard Area Control Act" requires the
24 DEP to study the nature and extent of the areas affected by flooding
25 in the State and to "delineate as flood hazard areas such areas as, in
26 the judgment of the department, the improper development and use
27 of which would constitute a threat to the safety, health, and general
28 welfare from flooding." The law further provides that the DEP,
29 wherever practicable, is to make floodway delineations identical to
30 the floodway delineations approved by the federal government for
31 the National Flood Insurance Program (NFIP).

32 This bill directs the DEP to update its delineations of flood
33 hazard areas as frequently as may be necessary to incorporate
34 floodway delineations as provided by the bill, and at a minimum, at
35 least once every 15 years. Further, upon adoption by the Federal
36 Emergency Management Agency (FEMA) of a new floodway
37 delineation, the bill directs the DEP to incorporate that federal
38 floodway delineation into the department's flood hazard area
39 delineation for that watercourse, provided the DEP determines that
40 the federal floodway delineation is sufficient to carry and discharge
41 the flood flow of the watercourse.

42 The bill also requires a person to apply for a permit, or any other
43 type of approval or authorization, issued by the DEP pursuant to the
44 "Flood Hazard Area Control Act," for a site based upon a floodway
45 delineation approved by FEMA for the NFIP, provided that (1) the
46 federal floodway delineation is more recent than the DEP's
47 delineation for the same watercourse, and (2) the DEP determines

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1 that the federal floodway delineation is sufficient to carry and
2 discharge the flood flow of the watercourse and is at least as
3 protective of the public safety, health, and general welfare as the
4 department's delineation.