

**CHAPTER 38**

**HIGHLANDS WATER PROTECTION AND PLANNING ACT RULES**

**Authority**

13:20-1 et seq., 13:1D-1 et seq., 13:1B-15.128 et seq., 13:9B-1 et seq., 23:2A-1 et seq., 58:1A-1 et seq., 58:10A-1 et seq., 58:11-23 et seq., 58:11A-1 et seq., 58:12A-1 et seq., 58:16A-50 et seq..

**Source and Effective Date**

R.2005 d.177, effective May 9, 2005.  
See: 37 N.J.R. 2050(a).

**Chapter Expiration Date**

Chapter 38, Highlands Water Protection and Planning Act Rules, expires on May 9, 2006.

**Chapter Historical Note**

Chapter 38, Wild and Scenic Rivers System, became effective September 18, 1980, as R.1980 d.401. See: 12 N.J.R. 458(a), 12 N.J.R. 577(b). Pursuant to Executive Order No. 66(1978), Chapter 38 was readopted as R.1985 d.510. See: 17 N.J.R. 1986(a), 17 N.J.R. 2553(a). Pursuant to Executive Order No. 66(1978), Chapter 38 was readopted as R.1990 d.505, effective September 18, 1990. See: 22 N.J.R. 1317(a), 22 N.J.R. 3229(a). Pursuant to Executive Order No. 66(1978), Chapter 38 expired on September 18, 1995.

Chapter 38, Highlands Water Protection and Planning Act Rules, was adopted as special new rules by R.2005 d.177, effective May 9, 2005. See: Source and Effective Date.

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## SUBCHAPTER 1. GENERAL INFORMATION

**7:38-1.1 Scope and authority**

(a) This chapter is authorized by N.J.S.A. 13:20-32 and establishes the environmental standards and procedures by which the Department shall review any application pursuant to the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. (Highlands Act) for major Highlands development proposed in the Preservation Area of the Highlands region, for a waiver from any requirement for a Highlands Preservation Area Approval, and any resource or applicability determination or exemption from the Act. In addition, the Department anticipates that the Highlands Regional Master Plan adopted pursuant to N.J.S.A. 13:20-8 by the Highlands Water Protection and Planning Council (Highlands Council), established pursuant to N.J.S.A. 13:20-4, will include a land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in the Preservation Area, which shall be based upon, comply with, and implement the environmental standards in this chapter and the resource assessment prepared pursuant to N.J.S.A. 13:20-11. The Department anticipates that the Regional Master Plan will address the components necessary to protect the natural, scenic, and other Highlands resources, including, but not limited to, forests, wetlands, stream corridors, steep slopes, and critical habitat for fauna and flora. Pending completion of the Regional Master Plan, the Department shall not approve a Water Quality Management Plan amendment for a project proposed in the Planning area without first obtaining a recommendation from the Highlands Council.

(b) Information regarding standards for agricultural or horticultural development in the Highlands Preservation Area can be obtained by contacting the New Jersey Department of Agriculture, Division of Agricultural and Natural Resources, John Fitch Plaza, PO Box 330, Trenton, NJ 08625-0330.

(c) The Department shall issue the following written determinations pursuant to N.J.A.C. 7:38-2, upon application and payment of a fee:

1. Whether a proposed activity meets the definition of "major Highlands development" as set forth in N.J.A.C. 7:38-1.4;
2. Whether a proposed activity is exempt from the requirements of the Highlands Act; and
3. Whether a proposed activity is consistent with the applicable areawide Water Quality Management Plan adopted in accordance with N.J.A.C. 7:15.

(d) The Department shall issue written confirmation regarding the location and extent of Highlands resource areas on a particular lot and block within a specific municipality pursuant to N.J.A.C. 7:38-4, upon application and payment of a fee.