



Resilient Environments And Landscapes

*Briefing on Forthcoming
Notice of Substantial Change*



NEW JERSEY
DEPARTMENT OF
ENVIRONMENTAL
PROTECTION

July 14, 2025



Background

REAL is a regulatory reform effort to modernize state-administered land resource protection rules to better support New Jersey communities, residents, and businesses in building resilience to sea-level rise, extreme weather, chronic flooding, and other impacts of our changing climate.

A primary focus of REAL is updating flood hazard area standards for the state's coastal zone.

DEP previously updated flood hazard area standards for the state's inland areas in Inland Flood Protection Rule proposed in 2022 and adopted in 2023.

$\frac{2}{3}$

**of NJ coastline
already at high or
very high risk to
coastal erosion**

98%

**of the coastline
at medium or
very high risk to
sea-level rise**

500,000

**acres of NJ
land highly
vulnerable to
coastal hazards.**





Following years of public and stakeholder outreach and engagement (2020-2024), DEP formally proposed REAL in August 2024.

On July 14, 2025, DEP will announce its intent to adopt REAL by year-end with the following primary changes responsive to public and stakeholder comment.

1. Lower proposed coastal flood elevation and reduce proposed coastal flood hazard area jurisdiction
2. Eliminate “no build zone” confusion by removing Inundation Risk Zone (IRZ) from list of coastal “special areas” that could be subject to a 3% impervious cover limit
3. Expand “compelling public need” exemption to promote inclusionary/affordable housing production
4. Extend legacy period to enable projects in process to proceed under existing rules
5. Provide additional flexibility for “dry access” requirements





DEP Review of Public Comments on 2024 REAL Proposal

- REAL proposed on August 5, 2024
following draft proposal release in May 2024
- Three public hearings held in
September 2024
- 90-day comment period closed in
November 2024
- 2,965 commenters



Notice of Substantial Change (NOSC)

Proposes changes to some of originally provisions of REAL in response to comments received and other input, which are intended for incorporation into the final rule adoption.

Provides for public comment on the proposed changes.

Provides for public hearing.

Intended adoption by year-end.

Next Steps:

Adoption of REAL with
substantial changes
responsive to public comment
and stakeholder feedback



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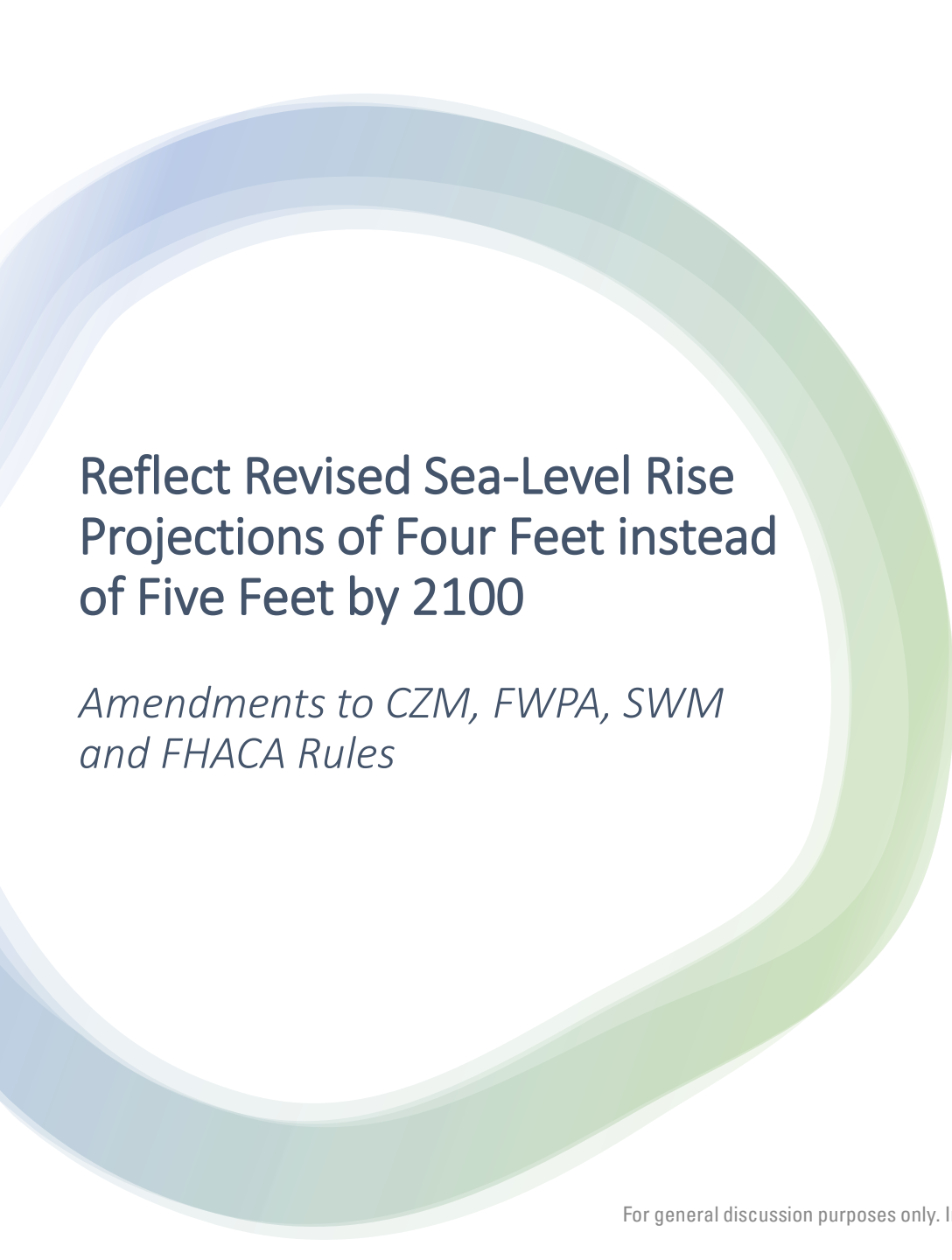
NJ Register publication date:
Monday, July 21, 2025
60-day comment period



Virtual Public Hearing:
September 3, 2025, 6:00 p.m.



Adoption of original proposal
with substantial changes
incorporated by January 2026



Reflect Revised Sea-Level Rise Projections of Four Feet instead of Five Feet by 2100

Amendments to CZM, FWPA, SWM and FHACA Rules

- Moderate emissions scenario now anticipates that sea level will rise by 4.4 feet by 2100 instead of 5.1 feet due to changed projections for global temperature increase from 3.3 to 2.7 degrees. Consensus developed on this point after REAL was proposed.
 - IPCC AR6, 2022; Larsen, et al., 2024; Climate Action Tracker, 2024
- IRZ and tidal CAFE would now be based on a 4-foot increase in sea level rather than the originally proposed 5 feet.
- NJDEP will review available climate change data every five years.

Remove IRZ from list of coastal Special Areas within subsection on DEP review of State Planning Commission Actions in the CAFRA area

Amendments to CZM Rules

N.J.A.C. 7:7-13.16

- As originally proposed, commenters believed the IRZ would always be designated as an area subject to 3% impervious limit during the Department's review of a formal action of the State Planning Commission for CAFRA consistency.
- This is not the intent.
- NOSC proposes to remove the IRZ from the list of special areas the Department will seek to designate for 3% impervious limit.
- The Department will still review state planning commission boundary changes for consistency with the goals of the Coastal Zone Management Rules



Clarify that the need to provide affordable housing is “compelling public need” for Flood Hazard Rules hardship exception eligibility

Amendments to FHACA Rules

N.J.A.C. 7:13-1.2 and 15.1

- Original proposal adds the following category to projects are eligible to apply for a hardship exception:
 - “The Department determines that there is a compelling public need for the project or regulated activity...”
- NOSC clarifies that the need to provide affordable housing is a compelling public need and thus eligible to apply for a hardship exception.
- Hardship will only be granted if public safety not jeopardized



Expand “Legacy” Provisions

*Amendments to CZM, FWPA, SWM
and FHACA Rules*

N.J.A.C. 7:7-26.1

N.J.A.C. 7:7A-19.1

N.J.A.C. 7:8-1.6

N.J.A.C. 7:13-21.1

Provide 180-day legacy period for General and Individual Permit standards

- Under original proposal, if application declared complete after effective date of REAL, new standards would apply
- In recognition of the substantial time and resources invested in development projects before DEP applications are submitted, proposal gives applicants 180 days from effective date of REAL to submit a complete application before new standards apply.

Add detail and flexibility to “dry access” requirements

Amendments to FHACA Rules

N.J.A.C. 7:13-12.5, 12.6

- Multi-residence and critical buildings must include vehicular access to help emergency personnel reach buildings and enable occupants to escape during a flood.
- Notice of Substantial Change:
 - Addresses commenter’s concerns regarding the potential impracticability of elevating existing public infrastructure.
 - Clarifies that dry access requirements apply only to buildings that are located in the flood hazard area, not the site at large.
 - Includes criteria for DEP to evaluate whether flexibility in dry access requirements are appropriate directly in the dry access provisions, rather than in the hardship provision.
 - This will reduce the number of hardship exceptions needed and provide more certainty about what the Department is looking for.





Add detail and flexibility to “dry access” requirements

Amendments to FHACA Rules

N.J.A.C. 7:13-12.5, 12.6

- Access roads must be constructed or elevated as much as practicable and no lower than the 100-year flood elevation.
- Amended proposal outlines the factors that will be evaluated when flexibility is requested, such as:
 - The depth and velocity of flooding that would inundate the primary access to each building
 - The amount of time that the primary access to each building would be inundated
 - Expected frequency of inundation events
 - How fast flood waters peak onsite
 - The number of people that will be adversely impacted when access is inundated
 - Info about emergency plans and flood proofing measures



Incidental height increase related to maintenance and repair not required to elevate/floodproof

*Amendments to CZM and FHACA
Rules*

N.J.A.C. 7:7-9.50

N.J.A.C. 7:13-8.1, -11.5, -12.5

- Original proposal exempts buildings that are substantially improved from new elevation requirements in cases where only maintenance and repair activities that do not alter the building's "height, footprint area, or habitable area" are proposed.
- Amended proposal clarifies that maintenance and repair activities resulting in small changes to the building's height, such as replacing a roof or chimney, which do not increase the building's habitable area, need not elevate or floodproof to NJDEP standards.

Revised burial depth for submerged cables

Amendments to CZM Rules

N.J.A.C. 7:7-12.21

- REAL initially proposed a two-meter minimum burial depth requirement for all submerged electric cables in shellfish habitat or where marine fish are harvested using bottom tending gear.
- Amended proposal would allow cables to be buried at 1.2 meters with appropriate documentation.
- Amended proposal also clarifies that cable depth is measured from the top of the cable.



Clarify “Major Development”

Amendments to SWM Rules

N.J.A.C. 7:8-1.2 and -5

- Original proposal amends definition of major development to include:
 - Reconstruction of one-quarter acre or more of “regulated motor vehicle surface” or “regulated impervious surface.”
- However, the inclusion of “regulated” in these terms incorrectly implies that only a net increase of these areas are captured.
 - The Department intended to use the terms “motor vehicle surface” and “impervious surface” to capture the reconstruction of the surfaces itself.
- Amended proposal uses the correct terminology.



Expand exemption for underground utilities

Amendments to FHACA Rules

N.J.A.C. 7:13-2.5

- Original proposal exempts underground utilities that are not installed using HDD, provided no work is proposed within 25 feet of the top of bank.
- Amended proposal clarifies that the placement of utility lines within or beneath lawfully existing pavement or other impervious surface is additionally exempt, even where such activities are proposed within 25 feet of the top of bank.
- Utility placement under such surfaces would not cause environmental harm even if proposed within 25 feet of any top of bank.



Allow dry-floodproofing in additional circumstances

Amendments to FHACA Rules

N.J.A.C. 7:13-12.5

- Original proposal prohibits dry-floodproofed buildings located within an inundation risk zone or within areas where flood velocities are unknown.
- Amended proposal aligns the FHACA rules with National Flood Insurance Program (NFIP) standards, the UCC, and ASCE 24-14, which allow dry-floodproofing in these areas.



Legacy provision for New Jersey studio and film-lease partners

Amendments to CZM, FWPA, SWM and FHACA Rules

N.J.A.C. 7:7-26.1

N.J.A.C. 7:7A-19.1

N.J.A.C. 7:8-1.6

N.J.A.C. 7:13-21.1

- Projects undertaken by New Jersey studio/film-lease partners that received that designation from the Economic Development Authority prior to effective date of REAL would be subject to today's regulations.



Buildings: Clarifications

Amendments to FHACA Rules

N.J.A.C. 7:13-12.5

- Original proposal inadvertently directs applicants to make every practicable effort to locate a building on “portions of the site where higher ground exists within a riparian zone.”
- Amended proposal corrects this and requires that buildings be located on higher ground “unless doing so would result in more environmental disturbance than siting it on lower ground.”
- Amended proposal also clarifies that portions of existing buildings being converted to another use must meet the requirements of N.J.A.C. 7:13-12.5 applicable for the proposed use.





Other proposed changes

- Exempt underground utility lines from deed notice requirements
- Correct an oversight--change CZM rules to reflect changes to Flood Hazard rules removing riparian zone exception for barrier islands
- Conditionally allow small-scale impacts to human made wetlands in stormwater basins under FWW GP1 to accommodate compliance with most recent stormwater rules
- Conditionally allow thin layer placement of material removed for mosquito control activities under FWW GP15
- Remove requirement to obtain certification from mosquito control coordination office for each site-specific proposal for mosquito control to facilitate continued use of regional DEP approvals under FHACA GP2



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