

NEW JERSEY'S REGULATORY RESPONSE TO A CHANGING CLIMATE

NJPACT REAL
NJ Protecting Against Climate Threats
Resilient Environments and Landscapes
23 May 2024

WEBINAR 3:
Coastal Climate Protection



NJPACT: Resilient Environment And Landscapes (REAL) Reforms

To address the unavoidable impacts of climate change, such as sea-level rise, extreme weather, and chronic flooding, NJDEP is pursuing targeted regulatory reforms that will modernize the land use rules and focus on increased resilience throughout the State.

Quick Overview:

- ▶ **Developed in response to Governor Murphy's 2020 EO**
- ▶ **50+ stakeholder sessions since 2020**
 - ▶ **Industry groups**
 - ▶ **Federal, State and local government agencies**
 - ▶ **Environmental groups**
 - ▶ **Insurance and investment agencies**
- ▶ **Focus mainly on:**
 - ▶ FHACA rules
 - ▶ Stormwater Management Rules
 - ▶ Coastal Zone Management Rules
 - ▶ Freshwater wetlands rules
- ▶ **Other NJDEP rules that refer to flooding are amended**
 - ▶ Addresses impacts of sea level rise
 - ▶ Improves land and water resource protection



NJPACT: Resilient Environment And Landscapes (REAL) Reforms

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Anticipated Schedule:

- ▶ **5.2.24: Proposal filed with Office of Administrative Law**
 - ▶ Courtesy copy posted on our website

- ▶ **5.20.24 through 5.29.24: Webinars**
 - ▶ 5.20: Session 1: Sea Level Rise and Inundation Risk Zone
 - ▶ 5.22: Session 2: Environmental Enhancements
 - ▶ 5.23: Session 3: Coastal Climate Protection
 - ▶ 5.29: Session 4: Stormwater

- ▶ **July 2024: Anticipated Publication in New Jersey Register**
 - ▶ Three public hearings
 - ▶ 90-day comment period

- ▶ **Rule adoption documents must be filed with OAL within one year of New Jersey Register publication**





REAL's foundational amendments

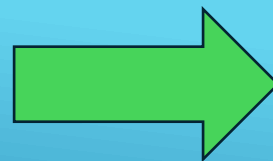
- **CAFE: Climate Adjusted Flood Elevation**
 - Adds 5 ft to 100-year flood elevation
 - Storm surge during weather events
- **IRZ: Inundation Risk Zone**
 - Risk of regular or permanent inundation
- **New standards will apply only to:**
 - New development
 - Redevelopment
 - Substantial improvements to buildings
- **Does NOT create no-build zones**



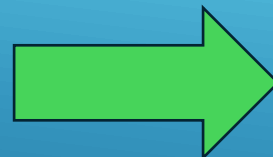
NJPACT: Resilient Environment And Landscapes (REAL) Reforms

Sea-level rise (SLR) specifically threatens our residents, economy, natural resources, and wildlife who rely on our coastal zone. New Jersey is particularly susceptible to the adverse impacts of climate change.

The Coastal Zone Management (CZM) Rules at N.J.A.C. 7:7-1.1 et seq. are being amended to provide additional protection to the coastal zone.



Specifically addressing the use of renewable energy



Encouraging the use of nature-based solutions for shore protection.



Amending CZM Subchapter 13 to provide increased interaction with the State Planning Commission.



Ensuring in-water development and structures on beaches are appropriately regulated



Addressing Renewable Energy

Adding standards at N.J.A.C. 7:7-12.21 – Submerged cable rule

- ❖ Address the installation of electrical cables associated with offshore wind development, including:
 - ❖ Location and method
 - ❖ Burial depth
 - ❖ Mitigation for shellfish and marine fish habitat



Addressing Renewable Energy

Amendments to N.J.A.C. 7:7-9.2 Shellfish Habitat

- ❖ Conditionally allows the installation of submerged cables in shellfish habitat in certain circumstances with mitigation



Addressing Renewable Energy Mitigation for submerged cable impacts

N.J.A.C. 7:7-17.9

- ❖ All dredging for submerged cables within shellfish habitat requires mitigation via contribution to the Department's dedicated account for shellfish habitat mitigation, based on:
 - ❖ the total area of shellfish habitat impacts
 - ❖ shellfish density within the project footprint
 - ❖ commercial value of the shellfish resource
- ❖ Oyster Reefs: restoration required where practicable



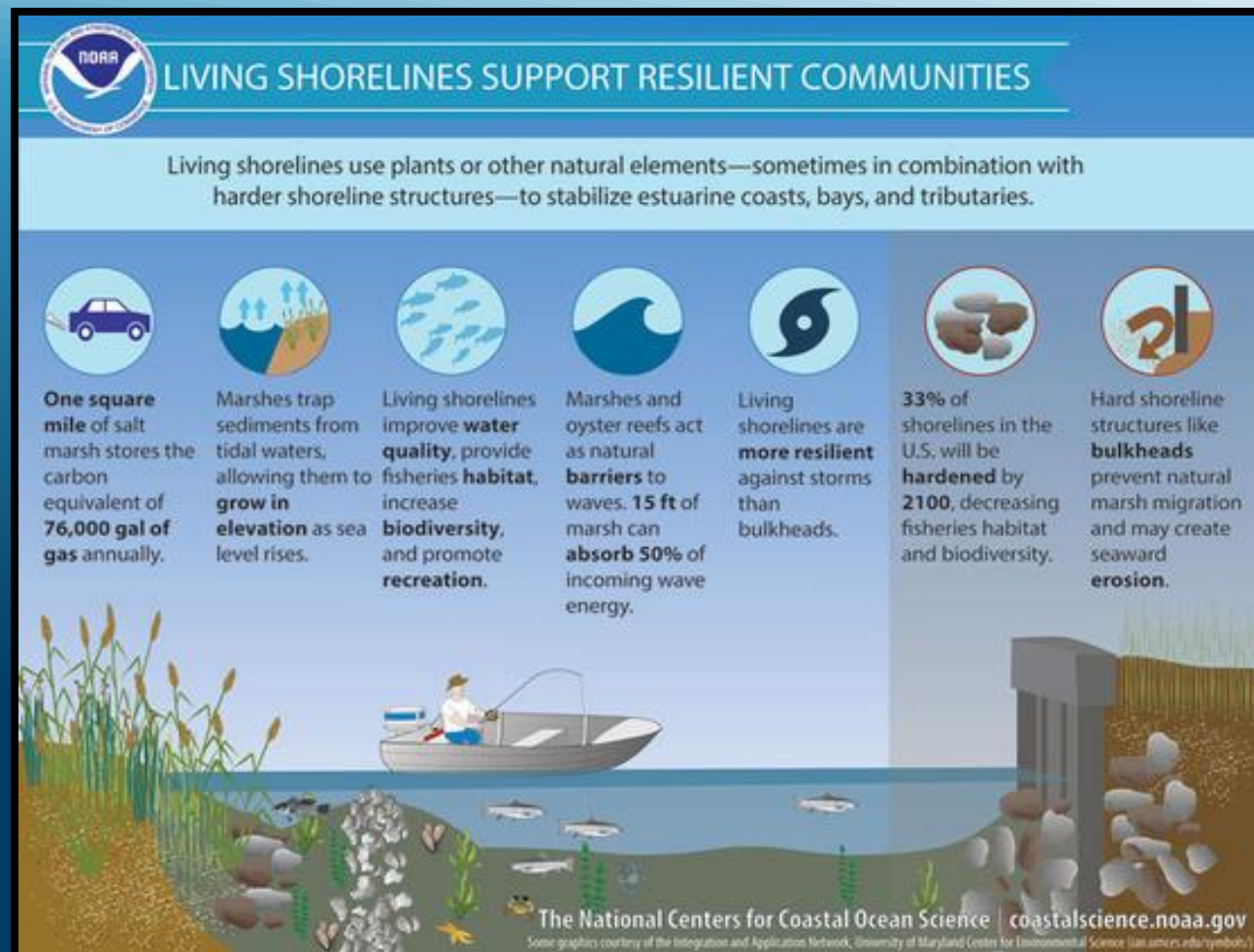


END OF SECTION 1

QUESTIONS?

Encouraging the use of nature-based solutions for shore protection

“Nature-based solutions” are projects designed to protect, restore, or enhance shorelines, wetlands, and in-water areas, utilizing natural features and processes to address erosion and flooding issues, and to restore or create ecological habitat.



Encouraging the use of nature-based solutions for shore protection

General Permit changes

- ❖ GP for shoreline stabilization using suitable vegetation (GP17)
- ❖ GP for Nature-Based Solutions (GP24)
 - ❖ Additional project types
 - ❖ Removed sponsorship requirement
 - ❖ Allowing greater flexibility in the footprint of restored shorelines
- ❖ No application fee



Encouraging the use of nature-based solutions for shore protection

Individual Permit changes

- ❖ Replaced N.J.A.C. 12.23 “living shorelines” with “nature-based solutions” standards encompassing more project types, including living shorelines
- ❖ Removed requirement that project may not exceed footprint of shoreline shown on tidelands maps



Encouraging the use of nature-based solutions for shore protection

- ❖ New general permit for nature-based solution research projects that will advance knowledge regarding habitat creation, restoration, or enhancement, and/or nature-based solution activities for the benefit of the environment and New Jersey residents.
- ❖ Select entities may utilize
- ❖ No application fee



Encouraging the use of nature-based solutions for shore protection

- ❖ Coastal Engineering Rule: N.J.A.C. 7:7-15.11:
 - ❖ Any shore-protection application must include analysis of the consequences to natural shoreline sand systems
- ❖ Dunes Rule N.J.A.C. 7:7-9.16:
 - ❖ Presence of engineered dunes does not de-regulate natural dune system





END OF SECTION 2

ANY QUESTIONS?

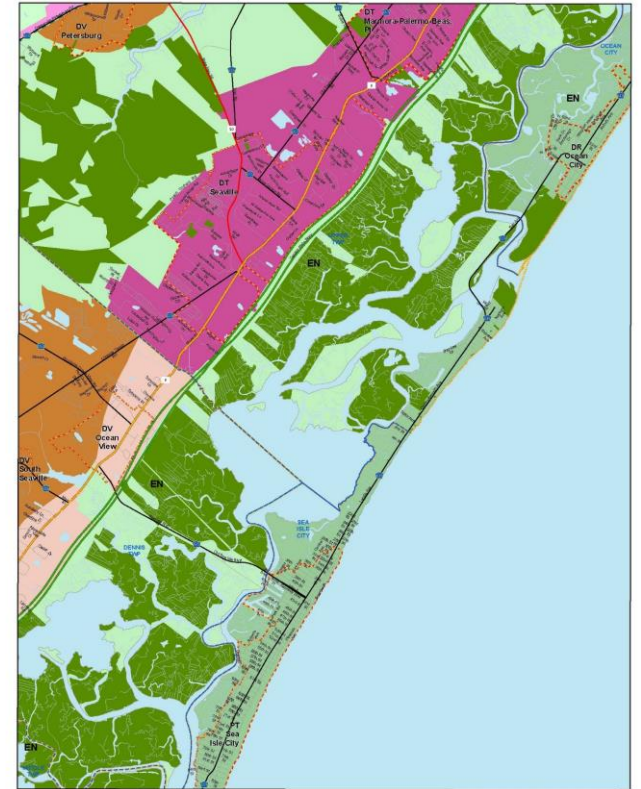
For general discussion purposes only. Information provided is pre-decisional and does not constitute a final agency decision or action



- Creating CAFRA Critical Environmental Sites and attendant regulatory requirements
- Amending Department's process to review a State Planning Commission formally approved new or changed boundaries

New Jersey
State Planning Commission July 01, 2016

Map prepared by the New Jersey Office for Planning Advocacy. Map was developed in part using digital data from the New Jersey Department of Environmental Protection, New Jersey Department of Transportation, New Jersey Highlands Council and the New Jersey Pinelands Commission, New Jersey State Plane Coordinate System, North American Datum 1983 (NAD83).



I certify that this quadrangle of the State Plan Policy Map was adopted and approved by the New Jersey State Planning Commission on May 15, 2013.

Gary Schadenberger
Gary Schadenberger, Secretary

Amendments to CZM Rules at Subchapter 13

“CAFRA Critical Environmental Site” added to rules

- “Critical Environmental Sites” as established by the State Planning Commission due to environmental sensitivity
- Being incorporating into the CAFRA area for regulation of impervious and vegetative cover
 - Impervious cover limit:
 - 3% of net land area
 - Vegetative Cover Requirements:
 - 70% tree preservation for forested portion of site
 - 5% tree preservation and/or planting percentage for unforested portion of site

Amendments to CZM Rules at Subchapter 13

New proposed definition for “Formal action by the State Planning Commission”

- *Means the approval of any new or changed Planning Area boundary, community development boundary, any new or changed site boundary; or the expiration or extension of any new core or node boundary, or any new or changed critical environmental or changed Planning Area boundary, community development boundary, any new or changed core or node boundary, or any new or changed critical environmental site boundary as per N.J.A.C. 5:85-1.1 et seq., which establishes the period of endorsement to be 10 years.*

- Includes expiration of centers after 10 years as a formal action.
- Triggers DEP to take action to ensure that the State Planning Commission action is consistent with the coastal goals.

Amendments to CZM Rules at Subchapter 13

7:7-13.16(f) sets forth process for determining whether a formal action by the State Planning Commission is consistent with the purposes of CAFRA

- Provides factors DEP considers to determine if a formal action by the State Planning Commission is consistent with the purposes of CAFRA
 1. Consistent with CZM rules and coastal goals
 2. Special areas under 7:7-9 are excluded from centers that encourage development or designated as Critical Environmental Site
- Applicant will submit narrative to Department, and Department may request additional info

Amendments to CZM Rules at Subchapter 13

- N.J.A.C. 7:7-13.19 and Appendix J
 - Mainland coastal centers are expired and thus proposed for deletion
- N.J.A.C. 7:7 Appendix H
 - Boundaries of non-mainland coastal centers in the CAFRA area proposed for deletion because these areas are likely to become inundated.



END OF SECTION 3

ANY QUESTIONS?

Development Over Water

“Zane” Exemption: N.J.A.C. 7:7-2.4(d) 6 & 7

- Repair, replacement, renovation, or reconstruction, in the same location and size of any dock, wharf, pier, bulkhead, or building, legally existing prior to January 1, 1981.
- Provided **the structure currently exists, and** the repair, replacement, renovation, or reconstruction is in the same location as the existing structure and does not increase the size of the structure and the structure is used solely for residential purposes or for the docking of or servicing of pleasure vessels.

Former Permits-by-Rule 1, 2, 6, and 7 for single-family homes, duplexes, and commercial development:

- Converting to general permits-by-certification to ensure compliance with elevation and flood proofing and provide better tracking of development.
- Former permit-by-rule 6, for reconstruction of SFH/duplex:
 - Clarifying that the development must be landward of mean high-water line to qualify

Sewer Lines on Beaches

Beaches rule at N.J.A.C. 7:7-9.22

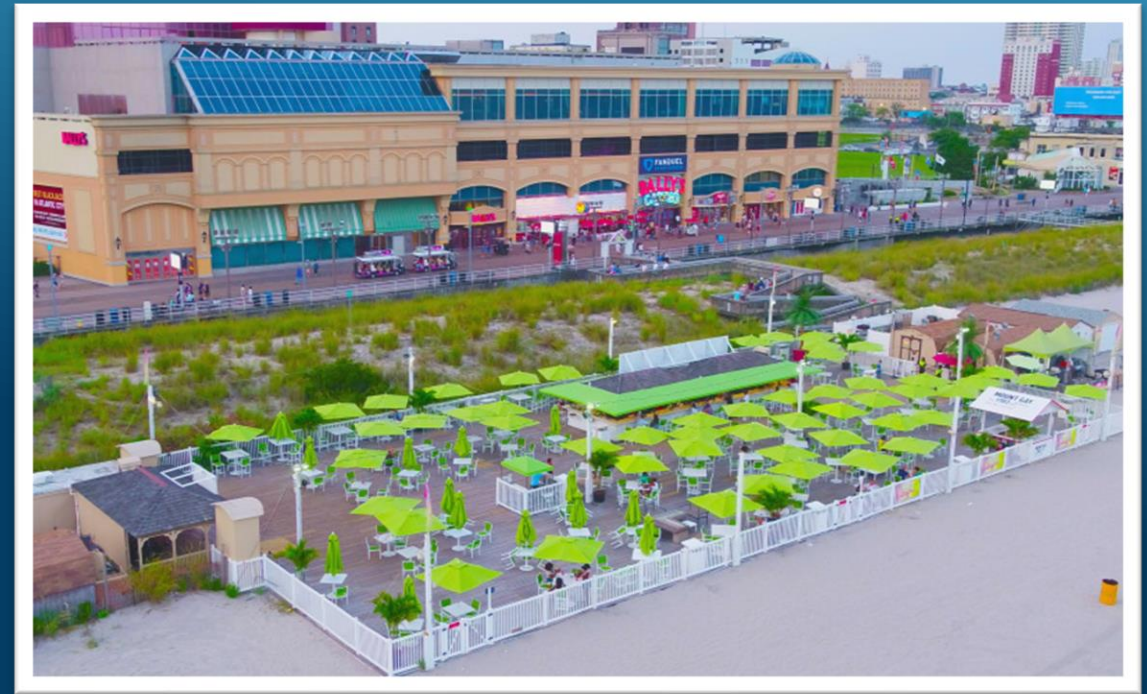
- Clarifies that sewer lines are prohibited on beaches
- Narrow exception for Atlantic City – may have temporary sewer lines associated with hotel/casino



Temporary Seasonal Structures on Beaches

■ General Permit 22

- Adding Emergency Structure Removal Plan which shall include:
 1. A detailed description how the structures will be removed including a timeline showing removal can be accomplished within 24 hours of a Severe Weather Alert;
 2. The identity and contact information of parties responsible for removal and relocation of the structures and proof of agreement for such services;
 3. A list of equipment that will be needed and confirmation of the responsible parties' access to such equipment which accounts for competing needs during storm events, and
 4. The location to which structures will be moved.
- Cannot conflict with Public Access
- No permanent utilities



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