

September 19, 2025

**Via Electronic Submission** ([www.dep.nj.gov/rules/rule-comment-form/](http://www.dep.nj.gov/rules/rule-comment-form/))

Chris Segal, Esq.

Attention: DEP Docket No. 05-24-05

Office of Legal Affairs

New Jersey Department of Environmental Protection

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RE: Docket No. 05-24-05, Public Comment

Dear Mr. Segal:

On behalf of the New Jersey State League of Municipalities, I write to express continued concerns regarding the New Jersey Department of Environmental Protection's (DEP) PACT REAL rules revised proposal published in the New Jersey Register on July 21, 2025, at 57 N.J.R. 1547 ("PACT REAL Rules"). While we can appreciate the Department's diligence in addressing public comments and making revisions, we still believe that the proposed rules create undue burdens on municipal governments, businesses, and residents without providing the necessary flexibility to effectively implement climate adaptation measures. We have received significant correspondence from our members who are directly affected by the proposed rules. They have submitted comments to the Department expressing their opposition to the PACT REAL Rules and we concur with these comments.

Not only do the proposed rules unnecessarily exceed local and existing FEMA standards, but the scope and impact of this proposal cannot be understated. At 1,044 pages this is the longest rule the DEP has ever proposed. Yet, the proposal makes drastic and significant modifications to multiple sets of regulations outside of the legislative process or with explicit authority from the legislature. Given the significance of the proposed PACT REAL Rules, it is more appropriate to achieve these changes through the deliberative process of legislation. We believe that the shared goal of protecting the state's residents from the impacts of climate change can be achieved through a more balanced and gradual approach. This approach is more reasonable, especially considering that there will be a new administration in office January 2026 that may not agree with the proposed rules. Careful

Michael F. Cerra, EXECUTIVE DIRECTOR

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review will yield fewer conflicts, if any, with other laws and state policies that have not been thoroughly considered with this rulemaking.

If adopted these rules will undoubtedly have an impact on development and redevelopment in many areas within the state. The PACT REAL rules as proposed will cause economic hardship for local governments and homeowners. The proposed rules will also negatively impact the state's affordable housing status.

For the reasons detailed below, we oppose the adoption of the revised PACT REAL rules.

### **Undue Burden/Economic Impact**

The PACT REAL Rules as proposed create an undue burden on the state's municipalities, especially in the coastal regions. Aside from a single sweeping mandate to multiple sets of regulations, the DEP still has not addressed the economic impact that these rules will have on the state's municipalities.

The PACT REAL Rules will deter economic development in the state. Creating a new flood zone or inundation risk zone, expanding existing flood zones through climate adjusted flood elevation, and creating new 3% impervious coverage limits deter or halt development altogether in some regions. The new land use regulations particularly as they relate to expansion and substantial renovation will cause real estate values to depreciate. A decline in economic development and increased construction costs will create financial burdens for lower- and middle-class property owners who are unable to afford to elevate their homes. The need to hire additional staff, enter additional public and private contracts in coastal municipalities in local construction offices due to additional duties and responsibilities imposed as a result of enforcing these higher regulatory standards will result in a significant additional cost for these local governments. The cost of higher regulatory standards on historic structures and historic districts should also be considered. As well as the financial impact on rateables and tourism if the proposed PACT REAL Rules are adopted. Federal funding is uncertain and competitive. Municipalities will inherit the burden of evaluating homes and buildings for Climate Adjusted Flood Elevation and regulating them which could translate into a need to hire additional staff and increase taxes for municipal residents. The DEP has made no mention of an economic impact analysis or a plan for a state budget appropriation to assist affected municipalities with these exorbitant costs.

While many of the proposed PACT REAL Rules' requirements on municipalities and private homeowners remains unclear, what is abundantly clear and undisputed is that these

changes, if adopted, will be costly and burdensome. While we share the DEP's commitment to addressing climate change and protecting our communities from sea-level rise, we believe that the solution should provide an avenue for some financial relief for municipalities directly affected by these costly changes.

### **Impact on Flood Insurance Rates**

The DEP should wait until the new flood insurance maps have been released before adopting the PACT REAL Rules. Another major issue that has not been addressed by the DEP is the increased cost of flood insurance that will likely occur as a result of the expansion of flood zones. Homeowners currently outside of the federal flood zone will be bound by the state's expanded flood zone potentially requiring them to purchase unnecessary flood insurance and further adding to their cost.

This issue is yet another area in which the new state mandates do not coincide with federal mandates. The State should follow the same process as FEMA in regard to flood insurance maps. The State has historically used FEMA's maps to guide public policy on this topic. FEMA's current flood maps are outdated and the agency is in the process of preparing detailed updates to the flood insurance maps that take into account many factors of risk including sea level rise. Also, the PACT REAL Rules fail to take into account that some homeowners with private flood insurance, that do not necessarily use FEMA's maps, may incur increased rates as a result of the 4ft flood elevation standard.

The cost of this significant regulation will have a detrimental effect on municipalities and their residents. Therefore, the DEP's goals to protect the state's residents from the impact of climate change is best achieved gradually and carefully, rather than the proposed approach which is extensive and based on a 17<sup>th</sup> percentile chance of occurrence.

### **Impact on Development/Redevelopment and Affordable Housing**

The restrictions imposed by the proposed PACT REAL rules such as an expansive inundation risk zone, and stringent building requirements, deed notices requirements, and a 3% impervious cover standard on development, redevelopment, expansions, and substantial reconstructions in these zones, will lead to a decrease in new development and

it will make redevelopment more difficult. The DEP addressed this in response to our comment published in July 21 NJ Register. However, the Department failed to provide any feasible remedies for this problem.

Also, the proposed expansion of flood hazard areas limits the potential capacity of mixed income housing development and even prohibits development in most coastal areas where there are already statutory affordable housing obligations. While the DEP responded to our concerns about the proposed rules' negative impact on the availability of affordable housing, these rules, as currently proposed, will still significantly increase the cost of housing, making it difficult if not impossible to provide affordable housing residents of affected areas.

### **Conclusion**

Overall, the League supports its members on the position that the PACT REAL Rules as proposed by the DEP, should not be adopted. Aside from the lack of clarity, premature nature, and uncertainty surrounding the basis for which these rules are being implemented, the changes proposed will have a significant impact on our members economically. It is clear that, to some degree, this economic burden will be eventually transferred to our member's residents in the form of decreased property values, higher taxes, and increased construction costs to name a few. Not only will these restrictions deter development in coastal communities, but it will also add to the current affordable housing crisis in the state. The PACT REAL Rules impose an unnecessary layer of state regulation and should instead be handled through a more methodical approach that includes deliberation and inclusiveness through the legislative process.