

NJDEP Seeks Public Comment on Proposed Revisions to Resilient Environments and Landscapes (REAL) Rules

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What You Need to Know

- The NJDEP has issued “substantial changes” to New Jersey’s Resilient Environments and Landscapes (REAL) proposed rules, seeking to modernize the state’s coastal flood safety and land resource rules to address threats to coastal resources and communities posed by climate change.
- If adopted, these rules will impact developable lands in many coastal communities and enact new standards for certain construction standards.
- Proposed changes include revisions related to sea-level rise, grandfathering and legacy provisions, deed notice requirements, and certain exemptions and administrative changes.

On September 3, 2025, the New Jersey Department of Environmental Protection (NJDEP) held a public hearing on the Notice of Substantial Change (NOSC) for revisions the Department made to the Resilient Environments and Landscapes (REAL) rule proposals. The Department originally published the REAL rule proposals on August 5, 2024, and due to significant comments received provided the NOSC revisions for public comment. The comment period closes on September 19, 2025. Interested parties may submit comments through the NJDEP’s rule comment form.

The REAL proposal seeks to modernize New Jersey’s coastal flood safety and land resource rules to incorporate sea-level rise and respond to the threat of climate change to coastal resources and communities. The REAL rule proposal is amending several existing regulations, most notably the Coastal Zone Management Act Rules, Freshwater Wetlands Protection Act

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Rules, Stormwater Management Rules, and Flood Hazard Area Control Act Rules. These rule changes, if adopted, will have wide-ranging effects on where development projects can be sited and the elevations required for structures.

The NJDEP is proposing several changes to the original REAL rule proposal:

- **Sea-level rise projection.** One of the more important changes reflected in the NOSC is the Department's proposal to use a projection of four feet of sea-level rise by year 2100 versus the original proposal of five feet. This reduction changes the jurisdictional line other rule provisions apply to and establishes a new standard for construction elevations within the regulated areas.
- **Grandfathering or legacy provisions.** The Department is proposing changes to the rules related to grandfathering certain projects to legacy provisions of the existing rules. The Department is expanding these legacy provisions to include "New Jersey studio partners" and "New Jersey film-lease partner facilities."
- **Deed notice requirements.** The proposed rules will require property owners to record deed notice language describing the effects of potential sea-level rise on the property and certain prohibitions related to habitable space consistent with the new rules. The Department is expanding the exemptions for this deed notice requirement to include activities related to underground utility lines constructed within a previously recorded easement.
- **Other exemptions and administrative changes.** The Department is changing several exemptions, so certain activities may avoid the need to change project designs between the existing and new rules. Other changes may affect a wide range of activities, including those related to mosquito control and conformity with the Uniform Construction Code.

The post-Labor Day public hearing was well attended and featured many commenters. Comments included opposition to the Department's selection of four feet of sea-level rise, the lack of a robust economic impact, detrimental impacts to certain businesses like marinas, and inclusion of a waiver of provisions for compelling public need, such as construction of affordable housing within the expanded regulated area. Other commenters supported the Department's advancement of the proposed rules and advocated for quick adoption of final rules.

The Department intends to finalize and adopt the rules by January 2026. The effective date of rule provisions will coincide with the publication of a final rule in the New Jersey Register in 2026. The timing of related permit applications will be critical in determining what rule provisions will apply to a project.

The firm's Environmental team will continue to closely monitor NJDEP's activity on this matter and will keep you advised accordingly. Please contact the author of this Alert with questions concerning this most recent development, or to discuss your specific business circumstances.

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