



Comments on Proposed Changes to Coastal Zone Management Rules

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We are submitting the following comments in response to the department's proposed amendments to the Coastal Zone Management Rules, N.J.A.C. 7:7; Freshwater Wetlands Protection Rules, N.J.A.C. 7:7A; and Flood Hazard Area Control Act Rules, N.J.A.C. 7:13. Our comments relate specifically to the proposed revisions to 7:7-9.18, coastal high-hazard areas. The proposed amendments would permit residential and commercial development in coastal high-hazard areas, that is, V or VE FEMA flood zones, over existing ocean piers and/or pilings in the Hudson River Waterfront area and Atlantic City.

New Jersey Future has worked with coastal municipalities for nearly five years, assisting local officials and community residents to recover from the extensive damage sustained from Hurricane Sandy. In the course of our work we have performed detailed, forward-looking risk assessments using the [most current, science-based projections](#) that describe clearly the changing conditions – specifically, rising sea levels and a subsiding coastline – that are accelerating threats to community health, safety, and welfare. Based on our research and that of several organizations and institutions that are working to characterize and communicate these growing coastal risks, **we urge the department to reverse its determination that development in high-hazard areas is acceptable and should be permitted.** There are several reasons we believe the department's determination should be reconsidered.

1. A detailed report and engineering analysis ("Flood Hazard Risk and Compliance Concerning Development on Piers and Platform, City of Hoboken", Hudson County, NJ, October 2013) that evaluated development on piers and platforms within high-hazard areas along the Hudson River coast for the City of Hoboken determined unequivocally that *"these areas are especially dangerous to public safety."* The report states further that *"sea-level rise projections for 2050 and 2100 demonstrate that risk of building on piers in V-zone areas will only intensify. The threat to public health and safety cannot be underestimated, with buildings surrounded by floodwater making evacuation, safety of first responders, firefighting, utility service and contact safety with polluted floodwater more problematic and dangerous."*
2. Risk analyses performed by New Jersey Future for several coastal communities demonstrate that as sea levels rise, ever-larger areas of these communities will be inundated or damaged by chronic flooding. If efforts are not made to respond to these impacts, many of these areas will no longer be viable, and over time property values will decline and property tax revenues will shrink dramatically. Projections indicate that Atlantic City will experience increasing flooding into the future due to sea-level rise. The Union of Concerned Scientists [analyzed the exposure of coastal communities to risk](#) and found that under the highest sea level rise scenario, by 2045 Atlantic City would face chronic inundation over 25 percent or more of its land area; even the lowest risk scenario shows a third of Atlantic City's land area will have disruptive flooding by the end of the century. Municipalities along the Hudson River waterfront face similar risks.

The rule amendments proposed by the department do not account for projected sea-level rise or climate change. Unless these factors are taken into account, we will continue to put people and

property in harm's way. The recent storms in Florida and Texas forced unprecedented evacuation, necessitated massive rescue efforts, and will require billions of dollars for rebuilding and recovery, to a large extent because development was permitted in areas at imminent risk. The department's proposed rules changes will enable continuation of these risk-prone development patterns.

3. According to the Hoboken report, General Rule 6 of the National Flood Insurance Program (NFIP) and the Uniform Construction Code includes major restrictions for building over water in V-zone-designated areas. The amendments proposed by the department would be inconsistent with current federal rules and state building codes. If a municipality approved development in these areas it would risk the possibility of becoming ineligible to participate in the NFIP, jeopardizing its ability to insure assets against future flooding damage. This was the [explicit reason for the governor's veto in August 2013](#) of a proposed rule amendment very similar to the one the department is considering now. Furthermore, if a town were to allow development in risk-prone areas it is very likely that it would be eliminated from participation in FEMA's Community Rating System (CRS) program. This voluntary incentive program recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements, and as a result, local residents' flood insurance premium rates are discounted.
4. Building on piers in high-hazard areas endangers the lives of emergency services personnel who are obligated to respond to disaster events. In addition, such development increases costs for recovery and rebuilding when damaged by storms, which have increasing probability of both occurrence and intensity of impact as sea levels continue to rise along New Jersey's coast.
5. The summary explanation of the proposed rule amendments asserts that any development that is permitted in accordance with the amended rules must comply with the Uniform Construction Code and federal flood reduction standards. This places the local building or elected official in the difficult, and possibly untenable, position of deciding whether to allow a proposed development that has received a state permit, but might not conform to these standards.
6. The National Flood Insurance Program was set to expire at the end of September; reauthorization has been extended to December 8, 2017, in reaction to the recent hurricanes. This allows more time for Congress to debate proposed reforms to the program. One of the acknowledged shortcomings of the current NFIP program is that it has not addressed proactively the problem of continuing to insure repetitive-loss properties, thereby inadvertently encouraging rebuilding and development in flood-prone areas. Some of the proposed legislation before Congress to reauthorize the program is attempting to address this deficiency. The rules amendment proposed by the department, however, would take the state in the opposite direction and perpetuate this defect.

In conclusion, we urge the state to provide guidance and assistance to coastal municipalities to encourage land use practices that respond to risks of rising sea levels by shifting development and redevelopment out of harm's way by limiting or precluding it in high-risk areas. We believe the proposed provisions of section 7:7-9.18 would achieve the opposite result, encouraging local officials to permit development in areas at risk in order to maximize economic return. We acknowledge that generating tax revenues is vital in order to pay for essential services. However, Hurricanes Sandy, and Katrina, and Harvey, and Irma and countless Nor'easters along New Jersey's coast have demonstrated repeatedly that the short-term return from tax-generating development in high-risk flood zones will not compensate for the recurring and future costs of recovery and rebuilding, or the threat to public health and safety.