

Comments on Resilient Environments and Landscapes (REAL) Rule Notice of Substantial Change (NoSC)

Submitted on behalf of the Jersey Water Works Green Infrastructure Committee on September 19, 2025

INTRODUCTION:

Jersey Water Works (JWW) is a collaborative effort of many diverse organizations and individuals who embrace the common purpose of transforming New Jersey's outdated water infrastructure by investing in sustainable, cost-effective solutions that provide communities with clean water and waterways; healthier, safer neighborhoods; local jobs; flood and climate resilience; and economic growth. The **Jersey Water Works Green Infrastructure Committee** submits the following comments on the New Jersey Department of Environmental Protection's (NJDEP) Notice of Substantial Change (NoSC) to the Resilient Environments and Landscapes (REAL) rule proposal.

Highlights, Questions, and Recommendations for Specific Items:

Flood Hazard Area Control Act (FHACA) Rules (N.J.A.C. 7:13)

Affordable Housing

- JWW cares about maximizing local resiliency to climate change. The proposed changes complicate this goal by designating the need to provide affordable housing as a compelling public need meriting a hardship exception, contingent upon the project's ability to meet certain criteria: the regulated activities may not threaten public health, safety, or welfare. While JWW recognizes that there exists a compelling public need to provide affordable housing, knowingly siting affordable housing in flood-prone areas must come with the understanding that there are exceptional limitations on the extent to which current and future flooding is likely to be mitigated in these areas.
 - Nature-based solutions, such as green infrastructure, fail to meaningfully capture stormwater beyond small to medium-sized rainfall events. Most green infrastructure practices are designed to retain the first 1-2 inches of runoff. Under the proposed Stormwater Runoff Quantity Standards, stormwater runoff volume equal to the water quality design storm of 1.25 inches of rainfall in 2 hours must be retained on-site through green infrastructure BMPs. While this requirement is necessary for preventing the expansion of flood zones, it does not adequately address the intensified needs of existing flood-prone areas. The volume of stormwater generated by larger storm events will exceed the capacity of most green infrastructure systems, leaving residents vulnerable to flooding. Further,

green infrastructure is entirely ineffective when flooded due to storm surge or fluvial flooding.

- On-site volumetric reduction requirements are insufficient to meaningfully reduce flooding within known flood zones. Stormwater BMPs must be sited upstream of proposed development to capture stormwater runoff before it has the opportunity to reach properties.
- While MS4-mandated Watershed Improvement Plans direct towns to plan for green infrastructure implementation, these projects are not guaranteed to significantly reduce instances of flooding in existing flood zones, nor is the planning for these projects a guarantee of their construction.
- Granting hardship exceptions for affordable housing without stronger protections will disproportionately expose lower-income households and renters to flood hazards, perpetuating cycles of environmental injustice. We urge the Department to approach hardship exception applications for affordable housing with the utmost scrutiny.

Signage

- The proposed changes remove a provision that would have required any new or substantially improved publicly-funded buildings to permanently incorporate signage indicating projected sea level elevations.
 - JWW believes that, regardless of revisions to future sea level rise estimates, clear and visible public awareness campaigns within flood-prone areas remain a desirable method of outreach and education.
 - Municipalities, counties, and the Department should strengthen efforts to catalog flood-prone roads and display signage to warn drivers of potential flood risks. These measures are low-cost, highly visible, and provide immediate public safety benefits by preventing automobile strandings during extreme rainfall events.

Freshwater Wetlands Protection Act (FWPA) Rules (N.J.A.C. 7:7A)

- The proposed changes at N.J.A.C. 7:7A-7.1 would allow for temporary impacts to human-made wetlands in and around stormwater basins in order to ensure necessary maintenance and monitoring activities. Such activities may include the removal of sediment, debris, and nuisance vegetation or the stabilization of the structure. The removal of vegetation or trees outside of the conveyance feature is not permitted unless necessary to gain access to the structure. During redevelopment, existing stormwater basins at times must be retrofitted and brought into compliance with current rules.
 - JWW supports these changes, recognizing the importance of continued maintenance and monitoring of stormwater best management practices (BMPs) to ensure long-term functionality. JWW also emphasizes the importance of retrofitting

existing stormwater BMPs to ensure compliance with current rules while incorporating design improvements that maximize volumetric reduction.

Stormwater Management Rules (N.J.A.C. 7:8)

- The proposed changes at N.J.A.C. 7:8-1.2 and 5.5(a) would include the reconstruction of any motor vehicle or other impervious surface, not just “regulated” surfaces, as a “major development” and would require 80 percent total suspended solids (TSS) removal for stormwater runoff.
 - JWW supports the classification of reconstructed motor vehicles and other impervious surfaces as “major development.” The 80 percent TSS removal requirement will ensure that redevelopment projects address nonpoint source pollution while encouraging the use of pervious pavement during redevelopment efforts.

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