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Melissa Abatemarco, Esq.  
Attention: DEP Docket No. 05-24-05  
Office of Legal Affairs  
New Jersey Department of Environmental Protection  
401 East State Street, 7th Floor  
Mail Code 401-04L  
PO Box 402  
Trenton, NJ 08625-0402

Dear Ms. Abatemarco,

On behalf of the New Jersey Business Coalition, consisting of more than 100 New Jersey business groups and associations dedicated to making New Jersey a great place to do business for its members, we are writing to express our concerns about the proposed Department of Environmental Protection's PACT REAL rule proposal. We respectfully request that it be withdrawn, the stakeholder process be restarted, and a new, workable regulation be proposed in its place.

This letter will highlight some of our major concerns, but we first want to address the process and the complexity of the rule itself. At 1,057 printed pages, this is the longest rule the DEP has ever proposed. While ostensibly intended to address concerns with climate change and sea level rise, it, in fact, totally changes the land use regulatory program, from process to standards. Most of this proposal has nothing at all to do with climate change. The rule should have been proposed as four or five separate rule proposals. Combining it all into one "mega rule" does a disservice to the regulated community and the public given its complexity, numerous problematic provisions, and the impossibility of trying to comprehend the totality of its impact.

While the rule proposal summary goes to great lengths to describe the stakeholder process held by the DEP, few businesses and organizations actually participated. There was little, if any, meaningful engagement of the parties, and much of what was proposed was never discussed at any stakeholder meeting with the business community. Moreover, the requirements of Governor Murphy's Executive Order No. 63, concerning the rule-making process, were not followed in practice or in spirit. Such a process would have led to a better proposal than the one currently pending. We ask that this rule be withdrawn, and the stakeholder process be restarted.

Given the enormity of the proposal, there are hundreds of concerns that we have. However, for the purposes of this letter, we will focus on our key concerns which are outlined below.

**Extreme Projections of Sea Level Rise** – Many of the negative impacts of this rule result from the DEP using an extreme, and outdated prediction of sea level rise. The business community recognizes the concerns posed by climate change and the very real fact of sea level rise. We need to address

these concerns in a practical, science-based, and workable manner. This rule is not practical, is not based on the latest science, and is not workable.

The rule proposal assumes that 75 years from now, based on unreliable modeling, with only a 17% confidence level, using certain “low confidence” assumptions, and relying on outdated scientific projections, there will be a 5-foot increase in sea level rise. The DEP is then proposing to take this future prediction and apply it to businesses and people today as if the seas have already risen by these extreme and improbable amounts.

The consequence of applying this flawed prediction of sea level rise and applying it to development today, is that it will have a negative impact on our economy and standard of living. It will put more land into regulatory flood zones, despite the fact that these areas have never and likely will never flood in our lifetimes. It will drive up the cost of housing and all development at a time when affordability is already a major concern. It will harm our urban cities and our tourism industry. This rule will not make us more resilient, and it will not solve the very real problem of sea level rise.

**Commercial Development** – By creating a large inundation risk zone (IRZ) and subjecting these areas to a 3% impervious cover standard, the rule would create vast “no build” zones, even in many of our urban and suburban areas needing redevelopment. The “substantial improvement” trigger in the rule will prevent many commercial buildings from being redeveloped or retrofitted to accommodate emerging societal needs. It will have the effect of freezing development in time and ultimately lead to urban and suburban decline. Rather than address the impact of these “no build” zones, the DEP has denied the rule’s effect in creating them.

**Urban Redevelopment** – The IRZ “no build” zones discussed above will apply to many of the state’s largest urban areas, such as Hoboken, Jersey City, Sayreville, Asbury Park, Atlantic City, and Camden. This will prevent any new development in these areas, prevent the expansion of existing developments, and will make redevelopment difficult if not impossible.

Exacerbating the impediments to urban redevelopment are the changes to the stormwater rules contained in the proposal. The DEP has historically recognized that the need for urban redevelopment outweighed any minor benefits that would be gained by imposing additional stormwater requirements on redevelopment projects. This proposal ignores the impacts on redevelopment and changes the stormwater requirements so that a redevelopment project in an urban area would need to meet the same stormwater requirements as if it were being built in a greenfield in a rural area.

While we agree that water quality in urban communities should be improved, the way to do so is not through site-by-site stormwater requirements but through regional planning and implementation efforts. The manner in which combined sewer overflows are being addressed is precisely the way stormwater should be addressed and is being addressed. The DEP should not harm urban redevelopment in order to mandate ineffective regulatory requirements.

**Affordable Housing** – The need for affordable housing, both for our workforce and citizens, is great. It is toward that end the Legislature passed comprehensive reform measures to help ensure that the needed units are actually built. The Department of Community Affairs just released affordable housing needs in each of our municipalities. Despite this action to secure needed affordable housing

for all our residents, the DEP rules go in the opposite direction. It is as if the DEP is ignoring or not aware of the need for affordable housing.

By creating large IRZ “no build” areas, extending flood mapping into areas that have never and will never flood, making the development process more complicated, time consuming, and less predictable, and subjecting development in many areas to increased regulatory requirements, the DEP is acting in direct contravention of the state’s affordable housing policies. We cannot have a prosperous society and a robust economy if the residents of the state cannot afford to live here.

While the business community recognizes that affordable housing perhaps should not be built in areas subject to flooding, this DEP proposal needlessly places thousands of acres of developable and prime real estate out of bounds due to its extreme projections and provisions.

**Retreat from the Shore and Urban River Communities** – Underlying much of the extreme provisions in this rule is the DEP’s policy preference that people move to “safer areas” in a “managed retreat.” This policy preference is clearly stated in the DEP’s Coastal Resilience Strategy. The proposal itself clearly states that future development should not occur in the inundation risk zone, which also includes all the barrier islands, despite the fact that they are already largely built. While the business community agrees that sea level rise is a potentially harmful process and that the state needs to address it in a comprehensive manner, we disagree that this rule is the answer to that problem.

The issue of retreating from all or part of the Jersey Shore or our urban waterfront municipalities is a major policy decision that should be made by the Legislature, the elected officials who represent the public interest. It is not a decision that should be made by a regulatory bureaucracy, with limited public input, and a narrow ability to address the issue. We favor a comprehensive approach to the problem and one that incorporates public input and weighs various options. While there may be areas of the state that should be abandoned, and our Blue Acres program is there for that reason, the general policy of the state should be one of resiliency, not retreat.

In summary, the process of developing this rule was fundamentally flawed, its provisions are too numerous and complicated to be merged into one regulatory framework, and its provisions are extreme, unworkable, and harmful to affordable housing, our commercial development sector, and urban development and redevelopment. We strongly encourage the DEP to withdraw this rule and start the stakeholder process over again. Thank you for your consideration.

African American Chamber of Commerce of New Jersey, Inc.  
American Camp Association NY/NJ  
American Institute of Architects  
American Council of Engineering Companies of New Jersey  
American Physical Therapy Association of New Jersey  
Atlantic County Economic Alliance  
Bernards Township Regional Chamber of Commerce  
Big I New Jersey  
BioNJ

Burlington County Regional Chamber of Commerce  
Bus Association of New Jersey  
Cape May County Chamber of Commerce  
Capital Region Minority Chamber of Commerce  
Central Ocean Business Association  
Chamber of Commerce of Greater Philadelphia  
Chamber of Commerce Southern New Jersey  
Chemistry Council of New Jersey  
CLB NJ  
Commerce and Industry Association of New Jersey  
CrossState Credit Union Association  
Downtown New Jersey  
Early Childhood Education Advocates  
Eastern Monmouth Area Chamber of Commerce  
Employers Association of NJ  
Fuel Merchants Associates of NJ  
Garden State Pharmacy Owners, Inc  
Gateway Chamber of Commerce  
Gloucester County Chamber of Commerce  
Greater Atlantic City Chamber of Commerce  
Greater NJ Motorcoach Association  
Greater Lehigh Valley Chamber of Commerce  
Greater Toms River Chamber of Commerce  
Greater Westfield Area Chamber of Commerce  
HealthCare Institute of New Jersey  
Hoboken Chamber of Commerce  
Home Health Services Association of New Jersey  
Hudson County Chamber of Commerce  
Hunterdon County Chamber of Commerce  
Insurance Council of New Jersey  
International Health, Racquet and Sportsclub Association  
Jersey Shore Partnership  
Mahwah Regional Chamber of Commerce  
Marine Trades Association of New Jersey  
Medical Society of New Jersey  
Middlesex County Regional Chamber of Commerce  
Meadowlands Chamber  
Monmouth Ocean Development Council  
Morris County Chamber of Commerce  
NAIOP-NJ  
National Federation of Independent Business (NFIB)  
Newark Regional Business Partnership  
New Jersey Apartment Association  
New Jersey Asphalt Pavement Association

New Jersey Association of Osteopathic Physicians and Surgeons  
New Jersey Association of Mental Health & Addiction Agencies  
New Jersey Bankers Association  
New Jersey Builders Association  
New Jersey Business & Industry Association  
New Jersey Campground Owners and Outdoor Lodging Association  
New Jersey Chamber of Commerce  
New Jersey Civil Justice Institute  
New Jersey Coalition of Automotive Retailers  
New Jersey Concrete and Aggregate Association  
New Jersey Council of County Colleges  
New Jersey Dental Association  
New Jersey Farm Bureau  
New Jersey Fitness Alliance  
New Jersey Food Council  
New Jersey Gasoline-Convenience-Automotive Association  
New Jersey Hospital Association  
New Jersey Hotel and Lodging Industry Association  
New Jersey Independent Electrical Contractors Association  
New Jersey LGBT Chamber of Commerce  
New Jersey Liquor Store Alliance  
New Jersey Licensed Beverage Association  
New Jersey Manufacturing Extension Program, Inc.  
New Jersey Motor Truck Association  
New Jersey Pharmacists Association  
New Jersey Podiatric Medical Society  
New Jersey Restaurant & Hospitality Association  
New Jersey Retail Merchants Association  
New Jersey Salon and Spa Coalition  
NJ Small Business Coalition  
NJ Society of Optometric Physicians (NJSOP)  
New Jersey Staffing Alliance  
New Jersey State Chamber of Commerce  
New Jersey State Funeral Directors Association  
New Jersey State Veterans Chamber of Commerce  
New Jersey Tourism Industry Association  
New Jersey YMCA State Alliance  
New Jersey Warehousemen & Movers Association  
New Jersey Utilities Association  
New York Shipping Association, Inc.  
North Jersey Jewish Business Alliance  
North New Jersey Chamber of Commerce  
Ocean City Chamber of Commerce  
Princeton Mercer Regional Chamber of Commerce

Professional Insurance Agents of New Jersey (PIANJ)  
Recreational Fishing Alliance  
Salem County Chamber of Commerce  
Somerset County Business Partnership  
Southern NJ Development Council  
Statewide Hispanic Chamber of Commerce of NJ  
Sussex County Chamber of Commerce  
TechUnited:NJ  
The American Planning Association - NJ Chapter  
The Leadership Council of the National Association of Professional Employer Organizations (NAPEO)  
The United Boatmen of N.J.  
Union Township Chamber of Commerce  
United Way of Northern New Jersey  
Utility & Transportation Contractors Association  
Washington Borough BID

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