New Jersey Senate Resolution 106 Invalidates NJDEP PACT Rules

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Real estate developers, property owners, and environmental stakeholders should be aware of recent legislative action affecting the proposed climate regulations issued by the New Jersey Department of Environmental Protection (NJDEP). In a significant development, the Senate Concurrent Resolution 106 (SCR 106) determines that certain proposed regulations under NJDEP's climate initiative are inconsistent with legislative intent and therefore invalid under New Jersey's constitutional review process.

Background

NJDEP's proposed Protecting Against Climate Threats (PACT) rules were designed to implement climate resilience measures, including updates to land use regulations to address sea-level rise, flooding, and stormwater impacts. The proposed rules would have significantly modified development standards in flood hazard areas, coastal zones, and other environmentally sensitive locations.

Because of the potential implications for development and permitting, the proposed PACT rules drew substantial attention and feedback from municipalities, industry groups, environmental organizations, and the real estate community.

Legislative Action

Through SCR 106, the New Jersey Legislature exercised its constitutional authority to review administrative regulations and concluded that portions of the proposed PACT rules exceed or conflict with the intent of the underlying statutes authorizing NJDEP's rulemaking authority.

Under New Jersey law, when the Legislature adopts such a resolution, the agency must address the concerns identified by the Legislature before the rulemaking can proceed. As a result, the current rule proposal cannot move forward in its present form.

What This Means for Real Estate Stakeholders

For developers, property owners, and land use professionals, SCR 106 effectively pauses the current regulatory effort and introduces uncertainty regarding the future scope and timing of the PACT rules. Potential implications include:

- Delay in the adoption of climate-related land use regulations proposed under the PACT initiative
- Possible revisions to NJDEP's approach to climate resilience and flood hazard regulation
- Continued monitoring of legislative and regulatory developments that could affect project planning and permitting

Projects that could have been impacted by stricter flood hazard, coastal development, or stormwater requirements may benefit from additional time while NJDEP reassesses the rule proposal.

Looking Ahead

On April 22, 2026, the Senate Environment and Energy Committee and the Assembly Environment and Solid Waste Committee held a joint hearing on the PACT rules. Audio from the Senate hearing is available by clicking here.

NJDEP may revise and resubmit portions of the PACT rules in response to the Legislature's findings. Stakeholders should expect continued legislative and regulatory attention to climate resilience and land use regulation in New Jersey.

Real estate developers and property owners should continue to monitor developments closely, as any revised proposal could still introduce significant changes affecting site design, permitting, and project feasibility.

Porzio's Real Estate, Environmental, and Land Use teams will continue tracking developments related to SCR 106 and the PACT rulemaking process, alongside our colleagues at Porzio Governmental Affairs, who are actively monitoring legislative activity. We will continue to provide updates as additional guidance becomes available and we welcome you to reach out to the authors with any questions.