

**CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY**

**RESOLUTION NO. 143-03-2026**

**A RESOLUTION SUPPORTING SENATE RESOLUTION NO. 106 (SCUTARI D-22)  
TO DETERMINE THAT THE  
NJDEP'S PROPOSED COASTAL REGULATION ARE INCONSISTENT WITH  
LEGISLATIVE INTENT**

**WHEREAS**, In the January 20, 2026 New Jersey Register, 58 N.J.R. 13 247(a), the Department of Environmental Protection (DEP) adopted a set of rules and regulations, known as "New Jersey Protecting Against Climate Change – Resilient Environment and Landscapes" (NJPACT – REAL), which make sweeping changes to various DEP rules and programs in response to climate change, including drastically increasing the size of the Flood Hazard Area under the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et 20 seq.), in addition to making changes to the State's stormwater management, wetlands conservation, and coastal area protection rules; and

**WHEREAS**, the rules and regulations will have substantial effects on ordinary New Jerseyans, by limiting development rights for countless homeowners and property owners, devaluing property, and having a significant impact on property tax assessments; and

**WHEREAS**, the rules and regulations will increase the cost of housing in New Jersey, by greatly restricting development in large areas of the State and increasing regulatory costs; and

**WHEREAS**, the rules and regulations apply the Flood Hazard Area rules to "substantial improvements," meaning, improvements that are valued at 50 percent or more of a property's value, which occur in the expanded "Coastal Adjusted Flood Hazard Area," creating disincentives to renovation, redevelopment, and imposing significant economic burdens on lower-valued properties in large areas of the State; and

**WHEREAS**, the rule adoption contains economic, housing, and jobs impact statements that are severely inadequate and include little evidence, and the impacts of rules and regulations of this magnitude should be carefully studied prior to implementation; and

**WHEREAS**, under the State Constitution, the duties and powers of the Executive Branch are limited to executing those laws that are enacted by the Legislature and the Governor; and

**WHEREAS**, the Legislature recognizes this principle by including, within its laws, an explicit authorization for an Executive Department to adopt rules and regulations to implement the law; and

**WHEREAS**, however, in this case, the Legislature did not merely neglect to include such an authorization, it enacted no law; and

**WHEREAS**, instead, the DEP proposed the NJPACT – REAL rules and regulations, which constitute a major climate change law, unilaterally, likely with the well-intended aim of combating the negative effects of climate change, but forgetting that the DEP does not represent the people of New Jersey and thus that it oversteps its constitutional authority by proposing entirely new laws, and ignoring the fact that inaction can also be an expression of the Legislature's will; and

**WHEREAS**, the DEP claims, in its rule proposal, that approximately 50 existing laws provide it with the statutory authority to advance the NJPACT – REAL rules and regulations; and

**WHEREAS**, however, there are several issues with this claim as many of the laws, including P.L.1951, c.80 (C.58:10-35.1 et seq.) and the "Radiation Protection Act," P.L.1958, c.116 (C.26:2D-1) et seq., have not been amended for at least 40 years, meaning that the Legislature could not possibly have intended them to authorize the DEP to combat the effects of climate change, since the issue of climate change was not salient at that time; and

**WHEREAS**, in addition, the DEP fails to cite the one significant statute that has been enacted specifically in response to climate change, the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), perhaps in tacit recognition of the fact that that law explicitly provides the DEP with the authority to establish a greenhouse gas monitoring and reporting program only, and that the Legislature specifically removed a provision that would have authorized the DEP to adopt rules and regulations to implement the other provisions of the law, including the greenhouse gas emissions reduction goals, during the passage of the law; and

**WHEREAS**, it is therefore clear that the DEP has overstepped its authority in proposing the NJPACT – REAL rules and regulations, and the Legislature urges the DEP to follow the principles of the Constitution and await future Legislative enactments regarding how best to protect New Jerseyans lives and property from the negative effects of climate change.

**NOW THEREFORE, BE IT RESOLVED**, that the Cape May City Council hereby formally supports SCR No. 106, which would determine that the NJPACT REAL Rules are inconsistent with legislative intent.

**BE IT FURTHER RESOLVED**, that certified copies of this Resolution shall be sent to the offices of Governor Mikie Sherrill, Senate President Nicholas Scutari, General Assembly Speaker Craig Coughlin, and State Legislators.

I, Erin C. Burke, City Clerk of the City of Cape May, County of Cape May, State of New Jersey, do hereby certify the foregoing is a correct and true original Resolution adopted by the City Council of the City of Cape May at a meeting held on March 17, 2026.

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Erin C. Burke, City Clerk

| Roll Call | Ayes | Nays | Absent | Abstain | Motion | Second |
|-----------|------|------|--------|---------|--------|--------|
| Baldwin   |      |      |        |         |        |        |
| Bodnar    |      |      |        |         |        |        |
| Meier     |      |      |        |         |        |        |
| McDade    |      |      |        |         |        |        |
| Mullock   |      |      |        |         |        |        |