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## NJDEP Releases Two Studies Discussing Precipitation Impacts Due to Climate Change, Providing a Scientific Basis for Proposed Regulations

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**Two studies** confirming the increase of precipitation across New Jersey over the last 20 years due to climate change will provide a scientific basis for the continuing development of an initiative, known as Protecting Against Climate Threats (“NJPACT”) required by Governor Phil Murphy’s Executive Order No. 100, and NJDEP’s Administrative Order No. 1, according to NJDEP Commissioner Shawn LaTourette. The Executive and Administrative orders call for NJDEP to implement regulatory reform to help reduce greenhouse gases as well as aid in making the natural and built environment more resilient to the unavoidable impacts of climate change. The two studies conducted by the Northeast Regional Climate Center, a National Oceanic and Atmospheric Administration (“NOAA”) partner, also project additional increases in precipitation intensity through the end of the century due to climate change. The NJDEP states these reports will “aid governments, communities and businesses in their work to build greater climate resilience.”

### What You Need To Know:

- According to the NJDEP, New Jersey is at “ground zero” for climate impacts such as rising sea levels and more intense and frequent weather events such as storms and flooding.
- Two recent studies confirmed an increase of precipitation across New Jersey and project additional increases in precipitation intensity.
- The newly released studies may have implications on several NJREAL proposed rules regarding land use.

According to the NJDEP, New Jersey is at “ground zero” for climate impacts such as rising sea levels and more intense and frequent weather events such as storms and flooding. As a result, it has committed to robust prevention and mitigation efforts that could serve as models for other coastal states that have not yet developed their own regulatory frameworks. NJPACT has two major frameworks to help meet its goals: Resilient Environments and Landscape (“NJREAL”) and Climate Pollutant Reduction (“CPR”).

The newly released studies may have implications on the following NJREAL proposed rules:

- The Inundation Risk Zone (“IRZ”) rules. The IRZ, which would be a new regulatory area, consists of dry land that is expected to be inundated by tidal waters daily or permanently by 2100. The IRZ rule proposes development in the IRZ be subject to more protective standards.
  - ◇ New buildings would require a hardship exception.
  - ◇ Elevation standards for new and substantially damaged/improved residential buildings.
  - ◇ Option to floodproof nonresidential and non-critical buildings if elevating is impractical.

## ENVIRONMENTAL PRACTICE

- Redefining the Tidal Flood Hazard Areas to account for impacts from sea level rising. The current tidal floodplain is based on FEMA's 100-year flood elevation. The proposed Climate Adjusted Flood Elevation ("CAFE") in tidal areas is five feet above FEMA's 100-year flood elevation.
- Redefining the Fluvial Flood Hazard Areas to account for future expansion in fluvial zones due to increased precipitation and runoff. NJDEP has proposed two options for elevation standards in these areas.
- Elevation standards for new and full-depth reconstructed roadways.

If you have questions about this alert, please reach out to your Saul Ewing Arnstein & Lehr contact or the authors.

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