

October 26, 2022

The Honorable Philip D. Murphy
Governor of the State of New Jersey
via email <constituent.relations@nj.gov> and <outreach@nj.gov>

Dear Governor Murphy:

We were pleased to learn two weeks ago of your intent to propose the Inland Flood Protection (IFP) rule imminently. We urge you to not only ensure it be formally filed by October 31 but also direct additional action described below by the end of the year “to better protect New Jersey residents, their property, and communities from dangerous flooding that has continued to worsen in recent years due to increasing precipitation resulting from climate change” (NJDEP IFP email, 10.13.22). As we reach the 10th anniversary of Superstorm Sandy, we can’t stop future storms, but we must prepare for the flood waters that will inevitably come our way.

As outlined in our letters of June 21 and October 26, 2022, new scientific studies show, and Tropical Storm Ida and Superstorm Sandy exemplify, the severity and frequency of inland and coastal flooding is increasing due to the climate emergency. As your own EO 100 notes: “New Jersey is especially vulnerable to the impacts of sea level rise, increased flooding and numerous other adverse impacts of climate change, with potentially disastrous consequences for public health and safety, as well as for the social and economic vitality of the State.”

The IFP rules are the first step forward. They will raise the design flood elevation by two feet and require stormwater management systems to be designed to accommodate future projected precipitation intensities. Additionally, they will help ensure new and improved roads, buildings, and infrastructure will be safer for today’s residents and those relying on them in the future.

However, the IFP rules are just a first step. Without additional expedited action, more people and property will be put in areas that have already had deadly consequences in past storms. The time between proposal and adoption affords developers the chance to rush through projects that fail to meet modern standards. NJDEP just experienced a flood of applications that lock in development built using flood data from the last century after May’s notice of pending emergency rules.

New Jersey Governors have taken bold and necessary executive action by enacting moratoriums on development applications when it is clear that public health and safety and the environment are at imminent risk and the normal course of rulemaking will not address the immediacy of the threat. (Byrne, Pinelands, EO 71, 1979; Kean, wetlands, EO 175, 1987; Florio, incinerators, EO 8, 1990; Whitman, EO 109, wastewater, 2000). Similar action is needed now to ensure rapid adoption of protective rules and that projects in the next few months can’t beat the clock.

In addition to policies to address flooding, the NJDEP is more than two years behind schedule in the rulemaking you ordered in EO 100 for climate change regulations by January 2022 on “land use permitting, water supply, stormwater and wastewater management and planning, air quality”, etc. Accordingly, we strongly urge your Administration take the following immediate actions:

- 1) Facilitate adoption of the IFP rule no later than April 30, 2023 by: a) filing it before November 1, 2022 for publication in the December 5, 2022 NJ Register, and b) publicly releasing it upon filing (with appropriate disclaimers);
- 2) Issue a moratorium on processing development applications pending adoption of the IFP and coastal flooding rules, as Governors Byrne, Kean, Florio and Whitman did, to

provide the time needed to update or issue new rules to protect public health, safety and the environment. An exception could be granted for applicants that incorporate the proposed regulation's updates.

- 3) Accelerate to December 31, 2022 proposed additional coastal, wetland, flood hazard and stormwater rules under NJPACT (Protect Against Climate Threats) that are currently planned for proposal no sooner than after IFP rule adoption (April at the earliest); and
- 4) Adopt by December 31, 2022 the proposed environmental justice, mobile cargo handling equipment and stationary source rules and propose by January 31, 2022 the immediate balance of NJPACT air pollution rules (black carbon, Advanced Clean Cars II, and medium and heavy duty truck omnibus and inspection). Being more resilient to the catastrophic impacts of climate change is not enough; we must also mitigate it and stop poisoning our lungs.

The risks of increased flooding are well known, the costs of inaction are high, and the authority to lead on protecting New Jerseyans from flooding is clear, granted by statute to NJDEP: "to delineate and mark flood hazard areas... adopt land use regulations for the flood hazard area... integrate the flood control activities of the municipal, county, State and Federal Governments" and further directing NJDEP to "update its delineation of flood hazard areas once every 15 years *and... prioritize the preparation of updates based upon flood risk*" (N.J.S.A. 58:16A-50 et seq.). Ignoring flood risks posed by climate change not only continues to put New Jerseyans in harm's way, it also contravenes state law. Now is the time to act.

Addressing inland and coastal flooding will build the momentum to fully address the need for NJPACT, including air emissions and stormwater management, which at its full implementation has the potential to cement this Administration's reputation as the most forward thinking leader amongst the states in protecting against climate threats.

We request a meeting to discuss the urgency of these proposals with you and your staff and look forward to working with you on this to keep people and property out of harm's way.

Sincerely,

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