



State of New Jersey  
THE PINELANDS COMMISSION  
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PHILIP D. MURPHY  
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LAURA E. MATOS  
Chair  
SUSAN R. GROGAN  
Acting Executive Director

## MEMORANDUM

To: Members of the Pinelands Climate Committee

From: Susan R. Grogan   
Acting Executive Director

Date: November 21, 2022

Subject: Meeting materials

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Enclosed please find the agenda for the Pinelands Climate Committee's upcoming meeting on **Wednesday**, November 30, 2022. We have also included the following documents:

- The minutes from the September 30, 2022 Committee meeting;
- A copy of the New Jersey Department of Environmental Protection's October 2022 press release announcing the Department's proposed inland flood protection rule. The rule proposal is expected to be published in the New Jersey Register in early December and can be read in its entirety here:

<https://dep.nj.gov/wp-content/uploads/inland-flood-protection-rule/docs/ifpr-fhaca-and-stormwater-rule-proposal.pdf>

The Committee agenda includes the prioritization of amendments to the Comprehensive Management Plan related to climate resilience. To prepare for that discussion, please review the two prior presentations listed below:

<https://www.nj.gov/pinelands/home/presentations/9-30-2022%20Lohbauer%20amendments%20presentation.pdf>

<https://www.nj.gov/pinelands/home/presentations/Climate%20Committee%207292022%20workplan%20presentation.pdf>

The Committee meeting will be conducted in-person and via teleconference. Specific access information will be provided to all Committee members in a separate email. The public will be able to attend the meeting in-person or view and participate in the meeting through the following YouTube link:

[www.youtube.com/c/PinelandsCommission](http://www.youtube.com/c/PinelandsCommission)



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LAURA E. MATOS  
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## PINELANDS CLIMATE COMMITTEE MEETING

November 30, 2022

Immediately Following the 9:30 a.m. Policy & Implementation Committee Meeting

**This meeting will be held in-person and virtually**

Richard J. Sullivan Center for Environmental Policy and Education  
Terrence D. Moore Conference Room  
15C Springfield Road  
New Lisbon, New Jersey

Watch the meeting on the Pinelands Commission's YouTube channel:

[www.youtube.com/c/PinelandsCommission](https://www.youtube.com/c/PinelandsCommission)

To Provide Public Comment, Please Dial: 1-929-205-6099 Meeting ID: 890 0604 8756

### Agenda

1. Call to Order
2. Adoption of the September 30, 2022 Committee meeting minutes
3. Discussion of Committee meeting schedule for 2023
4. Update on state initiatives
  - New Jersey Department of Environmental Protection Inland Flood Protection Rule Proposal
5. Prioritization of potential amendments to the Pinelands Comprehensive Management Plan related to climate resilience
6. Public comment

**PINELANDS CLIMATE COMMITTEE MEETING**

This meeting was conducted in-person and available remotely.

The public could view/comment through Pinelands Commission YouTube link:

<https://www.youtube.com/c/PinelandsCommission>

Zoom Meeting ID: 815 0448 8031

**September 30, 2022**

**Immediately following the 9:30 a.m. Policy & Implementation Committee Meeting**

**MINUTES**

**MEMBERS IN ATTENDANCE:** Chairman Mark Lohbauer, Commission Chair Laura E. Matos, Edward Lloyd, and Jerome H. Irick

**MEMBERS ABSENT:** Alan W. Avery, Jr.

**OTHER COMMISSIONERS PRESENT:** Theresa Lettman, Doug Wallner

**STAFF PRESENT:** Susan R. Grogan, Stacey P. Roth, Ed Wengrowski, Steven Simone, Ernest Deman, John Bunnell, Jessica Lynch, Paul Leakan, and Dawn Holgersen. Also present was Jeff Nielsen from the Governor’s Authorities Unit.

**1. Call to Order**

Chairman Lohbauer called the meeting to order at 11:18 a.m.

**2. Adoption of the July 29, 2022 Committee meeting minutes**

Commission Chair Matos moved the adoption of the July 29, 2022 Committee meeting. Commissioner Irick seconded the motion. All voted in favor.

**3. Update on state initiatives**

Governor’s new Office of Climate Action and the Green Economy

Ms. Grogan informed the committee of a letter recently received from the Governor’s Office of Climate Action and the Green Economy (GOCAGE).

She said the GOCAGE is forming a steering committee. She also said that members of the Governor’s office, NJ Department of Environmental Protection (NJDEP), Board of Public Utilities (BPU), and Economic Development Authority (EDA) are co-chairs of the committee.

Ms. Grogan said the steering committee will coordinate interagency efforts. She said there will be working groups and non-government experts will be utilized. She said there will be updates to the state's energy master plan, along with work on a variety of other issues and projects. She said the Commission anticipates an invitation to participate sometime in the future.

She said the GOCAGE is in addition to the Interagency Council on Climate Resilience (IAC), which the Commission is currently involved with. She said the staff will keep the Committee updated with any new information as it is received.

Chairman Lohbauer expressed praise for ongoing commitment of the Governor's Office to address those initiatives. He asked whether climate-related Comprehensive Management Plan (CMP) amendment proposals will need to be reviewed by these groups in addition to the standard Commission review. Ms. Grogan replied that it may be necessary. She said there is no guidance from the Governor's Office at this time for those proposals. Chairman Lohbauer mentioned a passage in the letter that may imply that the GOCAGE will seek oversight of such.

#### Interagency Council on Climate Resilience: agency preparation of "topic-specific" Resilience Action Plans

Ed Wengrowski, the Commission's Environmental Technologies Coordinator, delivered a presentation on the preparation of "topic-specific" Resilience Action Plans (RAP) for the IAC (*attached to these minutes and available on the Commission's website through the following link:*

[https://www.nj.gov/pinlands/home/presentations/Statewide%20Resilience%20Actions%20Plan%20Climate%20Committee%20update%2009.30.2022%20\(002\).pdf](https://www.nj.gov/pinlands/home/presentations/Statewide%20Resilience%20Actions%20Plan%20Climate%20Committee%20update%2009.30.2022%20(002).pdf)

Mr. Wengrowski said there are about 22 member agencies and entities participating in the IAC. He said the council reevaluated strategies that will be used moving forward. He said the determination is to develop topic-specific initiatives as a short-term scale-back of agency obligations. He said there will be more comprehensive RAPs, but they will be broken down to more manageable parts.

He said the initial request was to develop an agency specific RAP. He said that first plan will now be topic-specific. He said the topic-specific approach complements an addendum that was recently released regarding climate change impacts on human health and communities. He said the addendum was produced by the NJ Department of Health (NJDOH) and NJDEP.

Mr. Wengrowski said that agencies will be asked to provide plans addressing extreme heat and community health. He said the addendum will provide information to use for guidance in developing an action plan.

He said the addendum identifies direct and indirect impacts of extreme weather. He listed the effects as exacerbating respiratory conditions, cardiovascular disease, heat-related stress, increased vector borne diseases, increased frequency of pathogen contamination of food and water, and increased mental health stressors.

Mr. Wengrowski said the due date for the original agency specific RAP was set for October 2023. He said the new directive was issued on September 20th, changing the requirement to a topic-specific RAP. He said the original due date will still apply. He mentioned the 2024 task may cover economic impacts.

He said that the Commission's RAP will identify actions that will be considered and incorporated into policies, programs, and decision-making to address extreme heat and community health. He said the agencies will be assisted by advisory groups comprised of experts in each topic and through a stakeholder engagement process.

He said the next meeting is scheduled for October 11<sup>th</sup>, where more information regarding the expert advisory groups and templates for the RAPs will be provided.

Chairman Lohbauer mentioned the potential impacts from flooding and how it would affect development approvals. He asked if that may be something that will be discussed as part of the RAP. Mr. Wengrowski said that it may be part of a future discussion. He also said that flooding does relate to extreme heat and could be included as part of the Commission's RAP. He said that other agencies are addressing flooding on top of the current RAP requirements.

In response to Chairman Lohbauer's question as to the development of the RAP leading to CMP amendment language, Mr. Wengrowski said it is likely.

#### **4. New Jersey's No Net Loss Compensatory Restoration Act**

Ms. Grogan began by saying that the State's no net loss act has come up during previous Committee meetings, with an interest expressed in creating similar requirements for Pinelands development. Today's presentation will summarize the existing State Act and guide future Committee discussions.

Ms. Roth delivered a presentation on New Jersey's No Net Loss Compensatory Restoration Act (NNL) *(attached to these minutes and available on the Commission's website through the following link:*

<https://nj.gov/pinelands/home/presentations/NNL%20Act%20Presentation%20Climate%20Committee%209-30-22.pdf>*).*

Ms. Roth said the NLL applies only to state entities, including state universities and colleges. The Act requires that state entities develop and submit a plan to NJDEP, Division of Parks & Forestry, NJ Forest Service (NJFS), outlining compensatory reforestation for all areas, at least one-half acre in size, owned or maintained by the entity that are scheduled for deforestation.

She said the goal is have no net loss of existing forested area based upon a reasonable and practical Tree Replacement Factor (number of trees required to be planted in reference to the size of the parcel) after development, in accordance with the NNL Act.

Ms. Roth said compensatory reforestation plans are subject to approval by the Division of Parks & Forestry after review and comment by the NJ Community Forestry Council. She said that the Act provides that deforestation of land at least one-half acre in size cannot begin without approval of the state entity's compensatory reforestation plan.

She outlined the hierarchy of compensatory reforestation as: (1) reforestation on-site (adjacent to the deforested area); (2) reforestation on state or municipal property within the municipality in which the deforestation occurred; (3) reforestation on a site within five miles of the site of deforestation on lands owned or maintained by the state entity; (4) reforestation off-site, beyond five miles of the deforestation, on a property owned or maintained by another state entity; and (5) monetary compensation equal to the value of the number of trees required to be replaced if reforestation cannot be conducted on-site.

Ms. Roth said that in her experience with the Garden State Parkway widening project from 2006-2008, most compensation had been monetary. She said grants were established to fund tree planting projects in two municipalities.

Ms. Roth agreed with Ms. Grogan's observation that the monetary compensation is not used by the NJ Forest Service for replanting projects but is instead used to create grants that are given to other organizations who carry out such projects.

Ms. Roth said that state entities that have areas of at least one acre in size scheduled for deforestation must hold at least one public forum to present their plans for deforestation and reforestation.

She informed the Committee that the NNL Act has a section outlining non-applicability. She said that it declares non-state entities, activities deemed by the Division to constitute standard forestry, wildlife management, arboricultural practices, or actively maintained utility easements, or activities conducted or caused to be conducted by the Department of Military and Veteran's Affairs at the Brigadier General William C. Doyle Veterans Memorial Cemetery do not require compliance with the Act.

Ms. Roth said the NNL Program guidelines, established in 2016, include the method for determining the amount of deforestation, the method to calculate the compensatory reforestation obligation, the method of compensatory reforestation, tree establishment period of two years with criteria, project completion and recommendations for not meeting establishment criteria, elements of compensatory reforestation plan, and an application/applicability determination process.

She said that the guidelines were set up using a GIS grid that divides the state into half-acre blocks. She said the analysis of the amount of deforestation uses the grid to determine whether a forest was considered existing, emerging, or seedling. She said emerging or seedling forests would require an on-site evaluation.

Commissioner Lloyd asked if monetary compensation paid in accordance with the NNL Act could be given to private entities. Ms. Roth said that it is unlikely, but she will reach out for clarification.

Commission Chair Matos inquired as to whether there are enforcement regulations for entities that are not in compliance with the Act. Ms. Roth said that there is no provision in the Act but it would likely be addressed by not permitting additional deforestation activities. Ms. Grogan clarified that financial compensation would be required if guidelines were not met within two years.

In response to Chairman Lohbauer's question as to the jurisdiction for review of reforestation plans, Ms. Roth indicated that NJFS is responsible for the review, with support from the NJ Community Forestry Council.

Chairman Lohbauer also asked whether the deforestation around the Bass River fire tower would have required a reforestation plan. Ms. Roth said she is not aware if a plan was required. She also said that if an entity is unsure as to the obligations under the NNL, a determination letter can be issued by the Department.

Ms. Grogan commented that the NNL Act is extensive. She recommended a simpler approach when discussing potential requirements for projects in the Pinelands. She said that she observed a presentation from NJDEP during a recent Pinelands Municipal Council meeting regarding stormwater ordinances and the future implementation of tree removal and replanting ordinances. She said the Commission is monitoring the progress and content of such ordinances.

Commissioner Wallner asked whether study of the genetic material of the saplings is being observed as part of the reforestation plans. Ms. Roth replied that she is not aware of such study. She said that the focus is on the size of the trees planted. Commissioner Wallner clarified his question to express his concern that non-native tree species may be used for replanting. Ms. Grogan said that would be something for the Commission to consider as the CMP already focuses on the importance of planting native species.

Commissioner Lloyd recommended that there should be language stating that more stringent NNL requirements take precedence over those in the Act. Chairman Lohbauer echoed his concerns and mentioned the importance of carbon sequestration. Ms. Roth indicated that there is an amendment to the act being considered in the legislature and offered to contact the sponsors to propose added language. She also said the Act does not have language prohibiting more stringent requirements. She pointed out that the Pinelands Protection Act has language that states that anything that is inconsistent with the Act or the CMP would be considered void and the CMP would take precedence.

## **5. Discussion of Commissioner Lohbauer's July 28, 2022 suggested climate-related amendments to the Pinelands Comprehensive Management Plan**

Ms. Grogan delivered a presentation on Chairman Lohbauer's CMP amendment recommendations (*attached to these minutes and available on the Commission's website through the following link: <https://nj.gov/pinelands/home/presentations/9-30-2022%20Lohbauer%20amendments%20presentation.pdf>*).

She said that a recommendation was made to add "preamble" language that references the NJ Global Warming Response Act and the need for mitigation.

She said Chairman Lohbauer recommended a requirement that applicants must address climate mitigation by indicating the net effect of the proposed development on climate and proposing mitigating features. She emphasized the need for specific standards. The recommendation included a proposed Climate Mitigation Policy addition to the minimum environmental standards in subchapter 6 to address carbon sequestration, climate-related energy, and climate-related stormwater management.

She said the carbon sequestration policy recommendation would encourage the use of cover crops in agricultural areas, reduce or restrict fossil fuel use, encourage development on already disturbed land, and minimize development on and clearing of forested areas. She explained the recommendation to adopt a NNL policy requiring planting of replacement trees or contribution to the Pinelands Conservation Fund for use in acquiring/preserving forested lands. She recommended the establishment of defined clearing limits for development.

Ms. Grogan said the climate-related energy policy recommendation would require installation of solar or wind energy facilities on new major residential and non-residential projects as site conditions permit. She said the recommendation included language to express a preference or provide incentives for projects that conserve energy use for heating/cooling/lighting and/or use geothermal systems and projects that use energy storage systems in lieu of fossil fuel-based emergency power generation systems. She said that while she agrees with some of this recommendation, she is unsure of the legal ability of the Commission to make and enforce such requirements.

She said the recommended policy would also restrict expansion of commercial fossil fuel-related infrastructure throughout the Pinelands. Chairman Lohbauer commented that this recommendation is controversial but not completely inconsistent with the Governor's direction regarding the use of fossil fuels in the state.

Chairman Lohbauer clarified his recommendation about incentives for energy conserving projects. He said that while cash incentives may not be available to offer, offset items similar to the Pinelands Development Credit program may entice applicants to consider energy conservation in their projects.

Ms. Grogan said the climate-related stormwater management policy recommendation would require the use of pervious materials when the creation of new paved surfaces for driveways and

parking areas is proposed and to require all development applications to include flood planning and stormwater management systems that recognize increased frequency and intensity of rainfall related climate change. She said this recommendation is guided by NJDEP's recent consideration of an emergency rulemaking effort.

She noted that Chairman Lohbauer had other recommendations that pertained to business practices that would be better suited to discuss with the Personnel and Budget Committee.

Ms. Grogan recommended the Committee narrow down the recommendations to a smaller list as a priority for the Commission staff to pursue and research in detail.

Chairman Lohbauer clarified that the priorities should be established as an effort by the entire Committee. Commissioner Irick proposed the selection of three priority items to forward to Commission staff. He also suggested an additional review of the list to help make a determination.

Ms. Grogan reminded the Committee of their previous discussions on potential CMP amendments regarding solar energy facilities. Such amendments should also be part of the prioritization effort.

Chairman Lohbauer and Commission Chair Matos concurred with Commissioner Irick's suggestions and agreed to continue the discussion at the November meeting.

*Commission Chair Matos left the meeting at 12:20 p.m.*

## **6. Public comment**

Heidi Yeh, Policy Director for the Pinelands Preservation Alliance, said they generally support Chairman Lohbauer's recommendations. She said she would like to focus on one of the solar provisions. She urged the Commission to support the use of smart growth requirements for solar installations to make the switch to alternative energy but it should not be done at the expense of agricultural and natural resource protection.

She said she is enthusiastic about the possibility of the CMP requiring installation on existing impervious services such as rooftops and parking lots before allowing clearing or ground development facilities. She said it's a great idea but she is concerned that it may be ineffective at influencing development decisions since industry experts estimate that installing on parking lots and rooftops is more expensive than ground-mounted facilities.

She said she believes the effort is worth pursuing if the Commission could be creative about ways to require this or encourage it not only to conserve land. She said that it would also be beneficial when researching plans for extreme heat and community health that will be associated with climate change. She noted the fatal conditions of being left inside cars because of the

extreme heat. She said that covering parking lots with solar carports could help address the extreme heat in cars.

Ms. Yeh spoke about the discussion at the previous meeting regarding electric vehicles for the Commission and the driving range of those vehicles. She said that most electric vehicles on the market have a range of over 200 miles on a single charge. She said one could drive the entire perimeter of the Pinelands on a single charge. She said that she believes electric vehicles would be able to meet Commission needs and would be a wise investment of taxpayer funds.

Chairman Lohbauer closed public comment at 12:26 p.m. He stated that public comments could be made by email if anyone was unable to do so during the meeting. He said they would be addressed at the next meeting.

Chairman Lohbauer commented it was an honor to have former Governor Jim Florio serve as Chairman of the Commission several years ago. He said Governor Florio's passing is a great loss to the state. He also described his privilege of befriending Governor Florio while working for the Regional Planning Association. He said they frequently discussed Pinelands issues. He said that Governor Florio expressed his opinion on what working with the Commission meant to him and for the legacy of the people of New Jersey.

There being no further discussion, Commissioner Irick moved to adjourn the meeting. Commissioner Lloyd seconded the motion. The meeting concluded at 12:29 p.m.

Certified as true and correct:

A handwritten signature in black ink, appearing to read "Dawn Holgersen", with a long, sweeping horizontal line extending to the right.

Dawn Holgersen  
Technical Assistant  
November 14, 2022

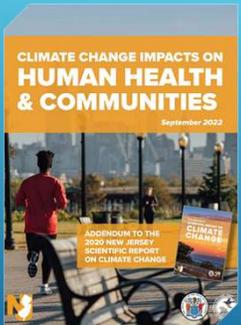
# STATEWIDE RESILIENCE ACTIONS PLANS

**Interagency Council on Climate Resilience shifts member agency tasks to Topic-Specific Initiatives**



Pinelands Climate Committee  
September 30, 2022

1



## HUMAN HEALTH AND COMMUNITIES ADDENDUM TO THE 2020 NEW JERSEY SCIENTIFIC REPORT ON CLIMATE CHANGE – SEPT. 2022

Direct and indirect impacts of extreme weather :

- Exacerbating respiratory conditions & cardiovascular disease
- Heat-related stress
- Increased vector borne diseases (mosquitos/ticks)
- Increased frequency of pathogen contamination of food and water
- Increased mental health stressors, (population displacement)

Next update will address Economic Impacts of Climate Change



2

### Interagency Council on Climate Resilience (IAC)

Originally the IAC directed each of the 22-member agencies to develop **Agency Specific** Resilience Action Plans (RAPs)

The deadline for the completion of the Agency Specific RAPs was October 2023.

A new directive was issued on September 20 requiring each member agency to develop **Topic Specific** RAPs

The first two topics to be addressed with separate RAPs for each include :

- ❖ **Extreme Heat**
- ❖ **Community Health**

The October 2023 deadline will still apply to the development of each of these topic specific RAPs



3

### The first two Pinelands Commission's topic specific RAPs will:

Identify actions that will be considered and incorporated into the Commission's

- Policies,
- Programs, and
- Decision-making

\*Policy and Programmatic Changes

- To address the climate related **extreme heat** and **community health**.

Each member agency will be assisted by Advisory Groups comprised of experts in each topic and through a stakeholder engagement process.

\* Such as new policies, procedures, programs, regulations, staff, funding, capital programs, research, etc.



4

Next IAC meeting will be on October 11, 2022

More information regarding the Expert Advisory Groups and RAP Document Templates will be provided.

**No Net Loss Compensatory Reforestation Act**  
**N.J.S.A 13:1L-14.1 *et seq.***

Pinelands Commission  
 Climate Committee Meeting  
 September 30, 2022

1

**NNL Act Requirements**

- State entities must develop & submit to NJDEP, Division of Park & Forestry (NJ Forest Service), a plan for compensatory reforestation for all areas, at least ½ acre in size that are owned or maintained by the State entity and are scheduled for deforestation.
- State entities = Department, Agency or Office of State Government, including a State University or College, or an authority created by the State.
- Goal of reforestation plan = no net loss of existing forested area based upon reasonable and practical Tree Replacement Factor developed due to the act of deforestation and in accordance with the NNL Act.

2

**NNL Act Requirements (cont.)**

- Plan is subject to approval by the Division of Parks & Forestry after review and comment by the NJ Community Forestry Council.
- Act provides that deforestation of land of at least ½ acre in size that is owned or maintained by a State entity may be commenced without approval of that State entity’s compensatory reforestation plan.

3

**NNL Hierarchy of Compensatory Reforestation**

1. Reforestation on-site (adjacent to the deforested area).
2. On State or municipal property within the municipality in which the deforestation occurred.
3. On a site within five (5) miles of the site of deforestation on lands owned or maintained by the State, County or other municipal entity.
4. Off-site, beyond five (5) miles of deforestation, may include site owned or maintained by State entity, other than one developing and implementing the plan, if that State entity that is to receive the benefits of the off-site tree planting agrees.
5. If the compensatory reforestation required cannot be conducted on-site, Act permits monetary compensation equal to value of the number of trees required to be replaced.

4

### NNL – Public Forum

- State entity, which owns or maintains land on which an area of at least one (1) acre in size is scheduled for deforestation, must hold at least one public forum.
- Held at least 180 days prior to the deforestation of the area.
- Held within municipality in which deforestation will occur.
- Or, if area of deforestation spans more than one municipality, in any one of the municipalities.
- At public forum, State entity will present its plan for deforestation and its plan for reforestation.
- 60-day comment period for oral and written public comment.
- Response to public comment within 60 days after comment period closes.

5

### NNL Non-Applicability

- Non-State Entities (i.e. municipalities, counties, private entities)
- Activities deemed by the Division to constitute standard forestry, wildlife management, or arboricultural practices, or actively managed existing utility easements; or
- Conducted, or caused to be conducted, by the Department of Military and Veteran’s Affairs at the Brigadier General William C. Doyle Veterans’ Memorial Cemetery.

6

### No Net Loss Compensatory Reforestation Program Guidelines (11-14-16)

- In accordance with NNL Act, NJFS, with the advice and assistance of the NJ Community Forest Council developed guidelines for the elements required in a reforestation plan.
- Guidelines include:
  - Method for Determining Amount of Deforestation
  - Method to Calculate Compensatory Reforestation Obligation
  - Methods of Compensatory Reforestation (NNL Hierarchy)
  - Tree Establishment period (2 years) and establishment criteria
  - Project completion and what to do if establishment criteria are not met)
  - Element of Compensatory Reforestation Plan
  - Application and Applicability Determination Processes

7

Questions???

8



1

### Commissioner Lohbauer's Recommended CMP Amendments

- Establish climate mitigation as a basis for Commission decision making through addition of new “preamble” language that references the NJ Global Warming Response Act and the need for mitigation

2

### Commissioner Lohbauer's Recommended CMP Amendments

- Require applicants to address climate mitigation by indicating the net effect of their proposed developments on climate and proposing mitigating features
- Add a new section entitled “Climate Mitigation Policy” to the minimum environmental standards in subchapter 6
  - Carbon sequestration policy
  - Climate-related energy policy
  - Climate-related stormwater management policy

3

### Commissioner Lohbauer's Recommended CMP Amendments

- Carbon sequestration policy
  - Encourage use of cover crops in agricultural areas
  - Reduce or restrict fossil fuel use
  - Encourage development on already disturbed lands; minimize development on and clearing of forested areas
  - Adopt no net loss of trees policy and require:
    - Planting of replacement trees; or
    - Contribution to the PCF for use in acquiring/preserving forested lands

4

## Commissioner Lohbauer's Recommended CMP Amendments

- Climate-related energy policy
  - Require installation of solar or wind energy facilities on all new major residential and nonresidential projects if site conditions permit
  - Express a preference or provide incentives for projects that:
    - Conserve energy use for heating/cooling/lighting and/or use geothermal systems
    - Use energy storage systems (battery-storage) in lieu of fossil-fuel based emergency power generation systems
  - Restrict expansion of commercial fossil fuel-related infrastructure throughout the Pinelands (gas stations, pipelines, petroleum-based fuel storage tanks)

## Commissioner Lohbauer's Recommended CMP Amendments

- Climate-related stormwater management policy
  - Require use of pervious materials when the creation of new paved surfaces for driveways and parking areas is proposed
  - Require all development applications to include flood planning and stormwater management systems that recognize increased frequency and intensity of rainfall related to climate change (i.e., adopt the increased rainfall levels referenced in NJDEP's recent emergency rulemaking effort)

**From:** NJ Department of Environmental Protection <NJDEP@public.govdelivery.com>

**Sent:** Thursday, October 27, 2022 3:22 PM

**To:** Grogan, Susan [PINELANDS] <Susan.Grogan@pinelands.nj.gov>

**Subject:** [EXTERNAL] ICYMI: Governor Murphy, NJDEP Commissioner LaTourette Announce Proposal of Inland Flood Protection Rule to Better Protect Communities From Extreme Weather



**FOR IMMEDIATE RELEASE**

October 27, 2022

**Contact:**

Bailey Lawrence

Larry Hajna

Press Office: Governor's Office /NJ DEP

Email: [Bailey.Lawrence@nj.gov](mailto:Bailey.Lawrence@nj.gov)

[Larry.Hajna@dep.nj.gov](mailto:Larry.Hajna@dep.nj.gov)

**ICYMI: Governor Murphy, NJDEP Commissioner LaTourette Announce Proposal of Inland Flood Protection Rule to Better Protect Communities From Extreme Weather**

**TRENTON** – Governor Phil Murphy and Commissioner of Environmental Protection Shawn M. LaTourette today announced the Administration’s intent to propose an [Inland Flood Protection Rule](#) to better protect New Jersey’s communities from worsening riverine flooding and stormwater runoff. The proposed rule would update New Jersey’s existing flood hazard and stormwater regulations by replacing outdated precipitation estimates with modern data that accounts for observed and projected increases in rainfall. These changes would help to reduce flooding from stormwater runoff and increase the elevation

of habitable first floors by two feet in certain new developments located in flood-prone inland areas.

“In order to ensure the safety and economic wellbeing of New Jerseyans both today and in the future, our policy decisions must be informed not by obsolete data, but by the challenging realities currently facing residents and businesses across the state,” **said Governor Murphy**. “Today New Jersey moves one step closer to further expanding the already extensive arsenal of climate adaptation measures at its disposal. Indeed, the inland flood protection rule is but one critical piece of our comprehensive and tireless efforts to safeguard vulnerable communities from physical harm and property damage, efforts that will produce a stronger and more resilient New Jersey for generations to come.”

“Updating the data New Jersey uses to manage stormwater runoff and determine building elevations along rivers and streams will help flood-prone communities to better protect their homes and businesses, making us more resilient to the increasing extreme weather that New Jersey is experiencing,” **said Commissioner LaTourette**. “My DEP colleagues and I are grateful for Governor Murphy’s vision and leadership in confronting the reality of New Jersey’s changing climate. And we deeply appreciate the thoughtful feedback we have received over the last two years of engagement with the public and leaders in labor, business, local government, academia, and advocacy while designing this and other important reforms as part of the New Jersey Protecting Against Climate Threats (NJ PACT) initiative.”

The rule proposal follows a series of informal public engagement sessions and sessions with stakeholders, including developers and labor organizations, environmental organizations, legislators, and municipal and county officials. It is anticipated that a formal rule proposal will be published in the *New Jersey Register* on December 5, 2022. Thereafter, a 60-day public comment period will run through February 3, 2023. A virtual public hearing will be held at 1 p.m. on January 11, 2023. A courtesy copy of the rule proposal can be found at <https://dep.nj.gov/inland-flood-protection-rule/>

Recent studies commissioned by the Murphy Administration regarding increased intensity of current and projected rainfall events indicate that additional resilience actions must be taken to better protect New Jersey’s people, communities, and public and private assets.

Rainfall runs off surfaces, into stormwater systems, and eventually into rivers and streams. Floodplains adjacent to these waterbodies accept overflow of these areas during flood events. While many floodplains are mapped by the Federal Emergency Management Agency (FEMA) and state government, existing flood maps are based on past conditions and do not account for changing conditions, such as increasing precipitation intensity. In some cases, flood mapping may not even be available in areas that now routinely flood.

To better protect public safety and property, the Inland Flood Protection Rule would establish design elevations that are reflective of New Jersey's changing climate and the more frequent and intense rainfall we are experiencing. The updated standards would apply to certain new and substantially reconstructed development in inland riverine areas that are subject to flooding, but they do not prohibit development in these flood hazard areas. Under the two primary components of the rule:

- The elevation of habitable first floors would be two feet higher than currently indicated on DEP state flood maps and three feet higher than indicated on FEMA maps.
- Applicants for certain permits would [use DEP's New Jersey-specific precipitation data](#) when calculating peak flow rates of streams and rivers for permits under the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, as well as when proposed development triggers compliance with DEP's Stormwater Management rules, N.J.A.C. 7:8.

If adopted, the updated standards would apply to new or reconstructed development and not to existing development. Pending development applications before the DEP that are administratively complete at the time of a future adoption would not be affected by these changes. Existing provisions of the flood hazard and stormwater rules that provide flexibility from strict compliance based on unique site-specific conditions would remain in place, along with newly proposed provisions designed to ensure that infrastructure projects already in progress will continue to move forward.

In an effort to close severe climate data gaps and provide a reliable scientific basis for regulatory adjustments, the DEP commissioned [New Jersey-specific studies](#) that confirmed precipitation has increased in the state over the past 20 years and will continue to increase through the end of this century. The peer-reviewed studies, released in November 2021, were performed by the Northeast Regional Climate Center, a partner of the National Oceanic and Atmospheric Administration (NOAA).

Key findings showed that:

- Precipitation amounts that long guided state policy, planning and development criteria relied upon data obtained through 1999 and did not accurately reflect current precipitation intensity conditions. Extreme precipitation amounts are 1 percent to 15 percent higher now than the 1999 data suggests. Therefore, the 1999 data previously in use is outdated and not reflective of current precipitation.
- Precipitation during the 100-year storm is likely to increase by 23 percent to 50 percent above the 1999 baseline by 2100. These numbers represent the upper end of the likely range as defined by the Intergovernmental Panel on Climate Change

(IPCC). Projected changes will be greater in the northern part of the state than in the southern and coastal areas.

In connection with the proposed Inland Flood Protection Rule, to aid the public to gauge flood risk and provide a visual approximation of regulatory jurisdiction on specific parcels, the DEP has launched a [flood indicator tool](#). While the tool does not provide a definitive demonstration of regulatory jurisdiction or calculate actual risk, it can be useful in assisting property owners or prospective property owners on potential risk and, by referencing the 500-year flood extent, approximate DEP's regulatory jurisdiction and flood risk. Armed with this information, property owners may then decide to take additional steps to determine actual risk, which is dependent on site-specific conditions.

Stormwater grant funding is available to help local officials understand and improve local stormwater management, thereby reducing flooding and improving water quality. The deadline to apply for the [Stormwater Utility Technical Assistance Grant](#) is November 1, 2022.

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*The New Jersey Department of Environmental Protection is dedicated to protecting New Jersey's environment and public health. The agency prioritizes addressing climate change, protecting New Jersey's water, revitalizing its communities and managing and promoting its natural and historic resources.*

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