

Climate Change Takes Center Stage as NJDEP Schedules February/March Stakeholder Meetings to Address Critical Regulatory Reform

Client Alert

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Based upon New Jersey Governor Phil Murphy's Executive Orders (EO) 89 and 100, the New Jersey Department of Environmental Protection (DEP) is undertaking comprehensive regulatory reform to combat climate change. The DEP has scheduled stakeholder meetings in mid-February and early March for the purposes of receiving input regarding changes to regulatory requirements concerning, among other things, greenhouse gas emissions, sea level rise and chronic flooding. The regulatory changes resulting from these stakeholder meetings have the potential to dramatically impact construction and development throughout the state.

By way of background, on October 29, 2019, Governor Murphy issued EO 89 (2019) establishing an Interagency Council on Climate Resilience to assist the DEP in the creation of a Statewide Climate Change Resilience Strategy. The purpose of the Interagency Council is to develop policies and plans for state action to mitigate and adapt to the effects of climate change and to promote the resiliency of New Jersey's economy, communities, and infrastructure to these impacts.

In furtherance of the goals of EO 89, and coincident with the Board of Public Utilities' (BPU) release of New Jersey's Energy Master Plan (EMP) on January 27, 2020, Governor Murphy issued EO 100 (2020), which directs the DEP to adopt widespread regulatory reforms - referred to as the Protecting Against Climate Threats (NJ PACT) initiative - to reduce emissions and adapt to climate change.

More specifically, EO100 directs the DEP to take immediate regulatory action to monitor, govern and reduce carbon dioxide emissions as well as short-lived climate pollutants including black carbon and methane, and to integrate climate change considerations (such as sea level rise and flooding) into its regulatory approval and permitting programs. EO 100 further directs the DEP to issue an Administrative Order identifying current regulations and guidance documents that the DEP should amend in order to integrate climate change considerations into the regulatory review and approval process.

Simultaneous with the issuance of EO 100, DEP Commissioner Catherine R. McCabe issued Administrative Order No. 2020-01 outlining the DEP's procedural plans to implement the requirements of EO 100. The Administrative Order provides that the DEP will commence the review of various existing regulations to determine what revisions or additions should be made to effectuate EO 100's objectives concerning the reduction of emissions from greenhouse gases and short-lived pollutants, and to develop land use planning policies to protect against unavoidable impacts from sea level rise, chronic flooding and extreme weather.

The DEP is moving expeditiously to implement EO 100 climate change regulatory reform objectives. The agency has scheduled the following **three regulatory stakeholder meetings** to discuss changes to the DEP's regulations:

- **February 21, 2020:** Discussion of potential rulemakings to require periodic monitoring and reporting of New Jersey's greenhouse gas emissions in accordance with the Global Warming Response Act.
- **February 25, 2020:** Discussion regarding potential rulemakings intended to reduce carbon emissions in the state in accordance with the carbon emission reduction policies in the Energy Master Plan.
- **March 2, 2020:** Discussion regarding potential rulemakings to reform the DEP's land use regulations by ensuring that the rules promote resilience and assist communities in adapting to the unavoidable impacts of climate change, such as sea level rise, extreme weather, and chronic flooding.

Additional information regarding the stakeholder meetings is on the DEP's website at <https://www.nj.gov/dep/njfact/>. Those interested in attending are required to register online.

The authors of this Alert, **Barbara J. Koonz** and **Maura E. Blau**, will continue to monitor developments in connection with the DEP's implementation of climate change regulations and will provide timely updates as this comprehensive regulatory initiative evolves.

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