



## Governor Murphy Announces Filing of Landmark Inland Flood Protection Rule

06/6/2023

**TRENTON** – Governor Phil Murphy today announced the Administration’s upcoming adoption of the landmark Inland Flood Protection Rule ([https://urldefense.com/v3/\\_\\_https://t.e2ma.net/click/3vnc1j/7ys5259b/vhbzg4\\_!!J30X0ZrnC1oQtbAIP6t4N\\_tkD42nEglKgugrZxrNz8mrf3lhC2s5fdWVL1kh-Q5phUJW4\\_d4zES0ye-9yS1zdJiCDVOPwTl6q7iLuBDs\\$](https://urldefense.com/v3/__https://t.e2ma.net/click/3vnc1j/7ys5259b/vhbzg4_!!J30X0ZrnC1oQtbAIP6t4N_tkD42nEglKgugrZxrNz8mrf3lhC2s5fdWVL1kh-Q5phUJW4_d4zES0ye-9yS1zdJiCDVOPwTl6q7iLuBDs$)) to better protect New Jersey’s communities from worsening riverine flooding and stormwater runoff. The rulemaking has been filed with the Office of Administrative Law and will become effective upon publication in the *New Jersey Register* next month. A courtesy copy of the rule and additional information are available here ([https://urldefense.com/v3/\\_\\_https://t.e2ma.net/click/3vnc1j/7ys5259b/baczg4\\_!!J30X0ZrnC1oQtbAIP6t4N\\_tkD42nEglKgugrZxrNz8mrf3lhC2s5fdWVL1kh-Q5phUJW4\\_d4zES0ye-9yS1zdJiCDVOPwTl6q-6khE4\\$](https://urldefense.com/v3/__https://t.e2ma.net/click/3vnc1j/7ys5259b/baczg4_!!J30X0ZrnC1oQtbAIP6t4N_tkD42nEglKgugrZxrNz8mrf3lhC2s5fdWVL1kh-Q5phUJW4_d4zES0ye-9yS1zdJiCDVOPwTl6q-6khE4$)).

The Inland Flood Protection Rule updates New Jersey’s existing flood hazard and stormwater regulations by replacing outdated precipitation estimates with modern data that account for observed and projected increases in rainfall. These changes will help reduce flooding from stormwater runoff and increase the resiliency of new developments located in flood-prone inland areas. Upon adoption, New Jersey will become the first state to use predictive precipitation modeling to implement rules to inform and protect future development and redevelopment from the impacts of climate change.

“The Inland Flood Protection Rule will serve as a critical component of my Administration’s comprehensive strategy to bolster our state’s resilience amid the worsening impacts of climate change,” said **Governor Murphy**. “As a national model for climate adaptation and mitigation, we can no longer afford to depend on 20th-century data to meet 21st-century challenges. This rule’s formation and upcoming adoption testify to our commitment to rely on the most up-to-date science and robust stakeholder engagement to inform our most crucial policy decisions.”

“New Jersey’s communities are facing unprecedented threats from the devastating impacts of extreme rainfall events, which are expected to continue to intensify in their frequency and severity,” said **Commissioner of Environmental Protection Shawn M. LaTourette**. “The Inland Flood Protection Rule ensures that inland, riverine areas at significant risk are better defined and that new and reconstructed assets in these areas are designed and constructed to protect New Jersey’s assets, economy and, above all, our people from the catastrophic effects of worsening floods. My DEP colleagues and I are truly grateful for Governor Murphy’s vision and leadership and for the thoughtful feedback we have received from the public and leaders in labor, business, local government, academia, and advocacy in designing this rule as part of the New Jersey Protecting Against Climate Threats (NJ PACT) initiative.”

“New Jersey is surrounded by water on three sides. For many residents – urban and rural, coastal and inland – flooding is a growing menace, resulting in billions of dollars of property damage, and with deadly consequences. Our climate is changing and so should NJDEP regulations to protect our communities today and decades into the future. These new protections will ensure new development isn’t putting people in harms’ way and reflects the best climate science we have. NJDEP and Governor Murphy deserve kudos for adopting inland flooding rules that learn not just from last year’s flood, but the larger ones to come,” said **Doug O’Malley, Director of Environment New Jersey**.

“The updated Flood Protection Rules will save lives. These rules use climate change data and modeling projections to regulate how and where development and redevelopment happens. New Jersey is once again leading the way, this time with the first set of rules in the nation to look forward rather than backward to establish floodplains and better manage 100-year storms. These Flood Protection Rules make us Jersey smart as well as strong and guide us to building a safer future for our families and communities in the face of the climate crisis,” said **Jennifer M. Coffey, Executive Director Association of New Jersey Environmental Commissions (ANJEC)**.

“Climate change has already increased rainfall amounts and flood levels in New Jersey and this trend is projected to continue,” said **Jim Waltman, Executive Director of The Watershed Institute**. “We applaud the Murphy Administration for modifying the state’s stormwater management and flood hazard control rules to account for climate change, a critical step towards protecting our communities, businesses and environment from flooding and water pollution.”

“We commend the Murphy administration and the staff at DEP for adoption of critical inland flood hazard rules under NJPACT. Another storm season is here, and we can’t continue to repeat preventable, tragic loss of life year after year. We must take action now to protect lives, health, and property,” said **Ed Potosnak, Executive Director, New Jersey League of Conservation Voters**. “We saw firsthand the devastation from Hurricane Ida, where tragically 30 souls were lost, including people living in low-lying affordable housing. That’s why updating the rainfall data for flood hazard regulations in the NJPACT rules is so important. It is literally a matter of life and death for the residents of our state.”

“The Inland Flood Protection Rule is a crucial regulation to protect our inland waterway communities from devastating flooding and will be a vital step in protecting all New Jerseyans from the growing threat of climate change and sea level rise. We are encouraged to see this rule adopted and look forward to continuing the fight for a more resilient New Jersey,” said **Michele Langa, staff attorney for NY/NJ Baykeeper and Hackensack Riverkeeper**.

“Raritan Headwaters is grateful for the hard work and persistence of the Department in creating the Inland Flood Protection rule,” said **Bill Kibler, Director of Policy for the Raritan Headwaters Association**. “We see storms becoming more frequent and more violent because of climate change; this rule will help New Jersey plan for our future and protect ourselves from flooding.”

“New Jersey is long overdue for the climate resilience that the Inland Flood Rule provides. Our state will continue to experience severe weather events and 100-year storms due to the imminent impacts of climate change. More floods are being experienced in places that did not flood before, heavy precipitation episodes are occurring more frequently, and more dangerous storms are being formed and impacting our communities. People are suffering because our infrastructure is not equipped to handle this, and this rule is the first step to address it. The inland flood rule will update the flood data that we rely on and change the ways we build,” said **Anjuli Ramos-Busot, New Jersey Director of the Sierra Club**. “Every hurricane season is a ticking bomb for the next big storm to come, which is why we need to implement this critical rule now.”

“New Jersey Future supports the Inland Flood Protection rule changes and applauds the shift toward requiring use of updated precipitation models to design our homes, roadways, stormwater management systems, and other critical infrastructure. Addressing riverine flooding became more evident in the wake of Tropical Storm Ida, the second deadliest natural disaster to impact New Jersey in the past century. Intense storms, whose frequency will increase as we grapple with climate change, demonstrate that our stormwater infrastructure was not built to convey such high volumes of rainfall, and that our homes, businesses, and roadways are extremely vulnerable to flooding. True resilience in the era of climate change will be measured in our ability to rebound quickly in the wake of a major storm event. Adding additional safety requirements in our floodplains, which should include an

of resiliency," said Diane Schrauth, Policy Director of Water for New Jersey Future.

The Inland Flood Protection Rule establishes design elevations that are reflective of New Jersey's changing climate and more frequent and intense rainfall, replacing standards based on outdated data and past conditions. The updated standards will apply to certain new and substantially reconstructed developments 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 will 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 will use DEP's New Jersey-specific precipitation data ([https://urldefense.com/v3/https://t.e2ma.net/click/3vncj/7ys5259b/r2czg4\\_!!J30X0ZrnC1oQtbA!P6t4N\\_tkD42nEgIKgugrZxrNz8mrf3lhC2s5fdWVL1kh-Q5phUUW4\\_d4zES0ye-9yS1zdJiCDVOPwTl6q-tPpTkS](https://urldefense.com/v3/https://t.e2ma.net/click/3vncj/7ys5259b/r2czg4_!!J30X0ZrnC1oQtbA!P6t4N_tkD42nEgIKgugrZxrNz8mrf3lhC2s5fdWVL1kh-Q5phUUW4_d4zES0ye-9yS1zdJiCDVOPwTl6q-tPpTkS)) 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.

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. In an effort to close several climate data gaps and provide a reliable scientific basis for regulatory adjustments, the DEP commissioned New Jersey-specific studies ([https://urldefense.com/v3/https://t.e2ma.net/click/3vncj/7ys5259b/7udzg4\\_!!J30X0ZrnC1oQtbA!P6t4N\\_tkD42nEgIKgugrZxrNz8mrf3lhC2s5fdWVL1kh-Q5phUUW4\\_d4zES0ye-9yS1zdJiCDVOPwTl6q-pwG7EmS](https://urldefense.com/v3/https://t.e2ma.net/click/3vncj/7ys5259b/7udzg4_!!J30X0ZrnC1oQtbA!P6t4N_tkD42nEgIKgugrZxrNz8mrf3lhC2s5fdWVL1kh-Q5phUUW4_d4zES0ye-9yS1zdJiCDVOPwTl6q-pwG7EmS)) 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.

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.

The updated standards in the Inland Flood Protection Rule will apply to new or reconstructed developments and not to existing developments. Pending development applications before the DEP that are administratively complete at the time of adoption are not 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 will remain in place, along with new provisions designed to ensure that infrastructure projects already in progress can continue to move forward.

The final rule also provides clarifications for the legacy provision of the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-2.1 to address projects that were wholly located outside the prior flood hazard area, and which have already received local approval under the Municipal Land Use Law. As initially proposed, this exemption from the new flood elevations would have been limited to those projects that had begun construction before the new rules were adopted. In recognition of the often-significant investments made for projects that have reached the stage of receiving municipal approval, the DEP is retaining the existing exemption for such projects.

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 ([https://urldefense.com/v3/https://t.e2ma.net/click/3vncj/7ys5259b/nnezg4\\_!!J30X0ZrnC1oQtbA!P6t4N\\_tkD42nEgIKgugrZxrNz8mrf3lhC2s5fdWVL1kh-Q5phUUW4\\_d4zES0ye-9yS1zdJiCDVOPwTl6q19tZ-P9S](https://urldefense.com/v3/https://t.e2ma.net/click/3vncj/7ys5259b/nnezg4_!!J30X0ZrnC1oQtbA!P6t4N_tkD42nEgIKgugrZxrNz8mrf3lhC2s5fdWVL1kh-Q5phUUW4_d4zES0ye-9yS1zdJiCDVOPwTl6q19tZ-P9S)).

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. Equipped with this information, property owners may then decide to take additional steps to determine actual risk, which is dependent on site-specific conditions.

## Governor Phil Murphy

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