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By Susan Bernstein: Eye on the Future and more Regulatory Changes

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The state's Executive Office of Environmental and Energy Affairs recently issued its Climate Change Adaptation Report, which outlines the future impacts of potential climate changes in Massachusetts and explores initiatives to manage these changes. The Report was a requirement of the 2008 Global Warming Solutions Act, for which an advisory committee was established to produce a report to serve as a guide for "adaptation strategies."

Focusing on the projected change in ambient air temperature during this century, the Report discusses the effects on the economy, public health, water resources, infrastructure, coastal resources, energy demand, natural features, and recreation. Of special importance to green issues and sustainability is the focus on low impact development, sea level increases, non-polluting energy sources, and threats to water supplies; as well as the financial impact on loss of property and cost of clean-up.

The Report discusses "sector-specific strategies" ranging from energy conservation to protection of natural habitat and protecting public health. It also emphasizes "careful siting and inclusion of design, engineering, construction and maintenance standards" as well as "sound land use decisions-guided by regulation and standards, incentives, and technical support."

Given the likely challenges presented by projected climate changes, more attention will have to be focused on measures in the real estate development process. Existing regulations previously discussed here, such as feasible alternatives, as well as likely newer regulations, hopefully coupled with appropriate incentives, will increasingly impact the development process.

Also relevant to the development process is a draft plan issued by the Mass. DEP aimed at streamlining its operation in response to a 25% reduction in its annual budget. The Plan proposes regulatory reform of certain state permits (e.g. wetlands, waterways, coastal resources; wastewater; solid waste; hazardous waste; asbestos abatement), while emphasizing the commitment to "permitting at the speed of business." Among the proposals of interest to green and sustainability issues are: expanding the categorization of "limited projects" under the wetlands regulations to energy projects eligible for Renewable Energy Credits; changes to coastal permitting programs, particularly for innovative "clean energy" projects on a "pilot" basis; and Permit-by-Rule for post-closure activities of solid waste facilities involving passive recreation without structures and renewable energy reuse projects. The goal will be to streamline the permitting process and make it more predictable for projects that help improve air quality, reduce greenhouse gas emissions and boost the green economy, while better utilizing DEP's resources.

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