Permit Extension Act Now Law

On June 29, 2020, New Jersey Governor Philip D. Murphy signed the Permit Extension Act of 2020 ("PEA") into law. The PEA extends environmental permits and other government approvals in effect on March 9, 2020 until the end of the public health emergency (the "COVID-19 extension period") and further tolls those permits and approvals an additional six months following the conclusion of the COVID-19 extension period. Notably, the PEA does not alter the duration of permits or approvals that expire after the conclusion of the COVID-19 extension period.

Impacted permits and approvals include, but are not limited to:

- Approval of a soil erosion and sediment control plan granted by a local soil conservation district;
- Waterfront development permits;
- Permits issued pursuant to the Freshwater Wetlands Protection Act;
- Permits issued pursuant to the Hackensack Meadowlands Reclamation and Development Act;
- Permits issued and center designations pursuant to the Coastal Area Facility Review Act;
- Plan endorsement and center designations pursuant to the State Planning Act;
- Permits and approvals under the Water Pollution Control Act, Water Quality Planning Act, and Safe Drinking Water Act;
- Permits issued pursuant to the Flood Hazard Area Control Act; and
- “[A]ny municipal, county, regional, or State approval or permit granted under the general authority conferred by State law or rule or regulation, or any other government authorization of any development application or any permit related thereto whether that authorization is in the form of a permit, approval, license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement or any other executive or administrative decision which allows a development or governmental project to proceed; provided that, for all of the foregoing, the approval was validly issued, and the term of such approval was unexpired as of March 9, 2020.”
The PEA also extends time periods for municipal agency action on municipal applications, including:

- Extending the time period for municipal completeness certification to 120 days after March 9, 2020, or 60 days after submittal, whichever is later. This applies to both applications awaiting certification on March 9, 2020, and applications submitted during the COVID-19 extension period.

- Extending the time period for a municipal agency to grant or deny an application for development submitted during the COVID-19 extension period to either 120 days after March 9, 2020, or 60 days after the application for development is certified as complete by the municipal agency, whichever date is later.

State agencies are required to place a notice in the New Jersey Register tolling approvals in conformance with the PEA. All approvals subject to the automatic suspension of running periods must then be “registered with” the New Jersey Department of Environmental Protection (NJDEP) within 30 days of the publication in the NJ Register. Any approval not so registered with NJDEP will be ineligible for extension. It is not clear what is required for an approval to be “registered” with NJDEP, however, and further guidance is anticipated.

NJDEP Staff Required to Take Intermittent Furlough Days Throughout the Month of July

In light of the pandemic, NJDEP suspended conducting field inspections required in connection with approvals and determinations like wetland letters of interpretation while staff were subject to the Governor’s stay-at-home order. This, in turn, delayed development applications to other agencies. The PEA is a laudable step in preventing the abandonment of projects stalled due to the COVID-19 pandemic and preserving jobs for New Jerseyans. However, just as NJDEP staff were returning to the office and to the field as the State’s phased reopening is underway, the Governor announced a deal with a state workers’ union to avert mass layoffs by instituting furloughs. As a result, NJDEP staff are required to take intermittent furlough days throughout the month of July. Though NJDEP staff are expected to continue processing permit applications, delays in responses are anticipated.