

## Executive Order Suspends 90-Day Review of NJDEP Permits

*May 4, 2020*

Over the weekend, Governor Murphy signed Executive Order 136 (“EO 136”), which affects the New Jersey Department of Environmental Protection’s (“DEP”) process for reviewing applications for environmental permits. EO 136 is the latest in dozens of orders the Governor has signed in response to the COVID-19 pandemic.

EO 136 tolls the timeframes under which DEP operates in reviewing and approving environmental permits, including timeframes relating to public notice requirements. Most notably, EO 136 suspends the so-called “90 Day Law,” which requires that DEP process land use permits within a 90-day review period. The Order also gives DEP the authority to establish earlier time frames for permitting decisions and to expedite applications it deems “necessary” for the protection of public health, safety, or the environment, or if the application is related to response to the COVID-19 pandemic.

EO 136 also takes action on some specific DEP programs, including timeframes for businesses to submit registration forms to engage in soil and fill recycling services pursuant to the recently-enacted “Dirty Dirt” law. In addition, the Order extends the deadline for municipalities to submit certain recycling information to DEP, as well as reporting deadlines for certain entities that collect electronic devices for recycling or disposal, by 60 days. Finally, EO 136 directs the Commissioner of DEP to issue and Administrative Order within five days extending the regulatory timeframes during which DEP will accept public comment on applications for permits or other approvals.

The language of the EO 136 itself also provides that DEP will attempt to process applications within the timeframes that normally would apply absent the Order. GHC attorneys participated in a conference call with DEP leadership over the weekend and, notwithstanding the language of the Order, DEP indicated that it intends to minimize delay and expedite processes if possible.

EO 136 took effect immediately and will remain in place until revoked or modified by further executive order, but DEP has indicated that the Order is tied to the current public health emergency in place in New Jersey.



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The environmental attorneys at Giordano, Halleran & Ciesla, P.C. are closely monitoring NJDEP's response to the COVID-19 pandemic and will provide further updates as they become available.

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