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NJ Governor Signs Executive Order Extending Statutory Deadlines for Environmental Laws

On Sunday, May 3, 2020, New Jersey Gov. Phil Murphy signed Executive Order 136 to assist the real estate and construction industry and ensure that the environment remains protected by granting the affected parties additional time to both accomplish their respective obligations and take advantage of their respective rights. The Order accomplishes these goals by extending certain environmental deadlines for every day the Public Health Emergency remains in place since March 9, 2020 in each of the following situations:

- Municipalities' annual reports of recycling tonnage;
- Waste handlers' semi-annual electronic waste reporting;
- Periods of public comment in response to regulatory proposals;
- Deadlines for soil & fill recycling registrations, which affect the handling of "dirty dirt;" and
- Deadlines for action required by the Department of Environmental Protection in connection with applications for, or renewals of, permits, registrations, plans, petitions, licenses, rates and other approvals. The Department is required by the Waterfront Development Act, the Freshwater Wetlands Act of 1970, the Coastal Area Facilities Review Act, and the Flood Hazard Area Control Act to respond to certain construction/maintenance applications within a specific time period or such applications are deemed approved. The Executive Order grants the Department additional time for the Department to review applications to identify and prevent environmental damage which may be caused if a particular application was approved.

The Order acknowledges that processing of those permits which may require site visits has been delayed due to shelter-in-place requirements and/or the exposure concerns of those employees charged with performing the inspections, and that the Department's activities are not capable of functioning at full capacity without personnel being physically in the office. Recent experience with applications and other submissions to the Department indicates that inspection and processing times have significantly slowed and file reviews have essentially ceased altogether as much of the Department's files are not scanned and must be reviewed in person. File reviews are key components of Phase I site assessments, and therefore the delay in completing reviews affects the completion of due diligence studies in real estate transactions. The inability to finalize due diligence could have financial implications if lenders require completed file reviews prior to issuing

loans. Likewise, incomplete or absent file reviews could impact a buyer's pursuit of an innocent purchaser defense.

Further, the New Jersey state legislature is currently considering a bill (S2346) that would extend land use approvals in a similar manner and, as currently drafted, would

provide greater relief for construction activities. The bill supplements the Permit Extension Act, which was passed in response to the 2008 Recession and alludes to the possibility that Covid-19 may cause additional delays in the future due to repeated shelter-in-place requirements. More information on S2346 to follow.



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Please do not hesitate to reach out to your Stradley Ronon contact, or to any member of Stradley's Coronavirus Task Force, with any questions and concerns you may have during this period.