



# State of New Jersey

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

OFFICE OF THE COMMISSIONER

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**PHILIP D. MURPHY**

*Governor*

**SHEILA Y. OLIVER**

*Lt. Governor*

**CATHERINE R. McCABE**

*Commissioner*

### **ADMINISTRATIVE ORDER NO. 2020-06**

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 (COVID-19), Governor Phil Murphy issued Executive Order No. 103 (EO 103), dated March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, Governor Murphy issued a series of Executive Orders to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104, 107, 122, 131 and 136 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, as of March 19, 2020, Governor Murphy also instructed all State departments and agencies, including the Department of Environmental Protection (DEP) to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, on March 21, 2020, Governor Murphy issued Executive Order No. 107 (EO 107), the facts and circumstances of which are adopted by reference herein, recognizing that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread through person-to-person contact, and ordered greater social distancing throughout New Jersey by limiting the unnecessary travel and person-to-person interactions in accordance with Centers for Disease Control (CDC) and Department of Health (DOH) guidance and requiring all businesses or non-profits, wherever practicable, to accommodate their workforce for telework or work-from-home arrangements and reduce staff on site to the minimal number necessary to ensure that essential operations can continue; and

WHEREAS, restricting the physical presence of individuals in office environments and work sites is critical to preventing future community spread of COVID-19; and

WHEREAS, on April 8, 2020, Governor Murphy issued Executive Order No. 122 (2020), which, among other things, ordered non-essential construction projects to cease but allowed for the continuation of essential construction projects; and

WHEREAS, among its many responsibilities, certain laws governing land use and development require DEP to review applications for construction and other projects that may impact the State's natural resources; and

WHEREAS, many of these laws set certain time frames by which DEP must take public comment and render decisions lest projects be deemed approved; and

WHEREAS many DEP rules specify the minimum period that must be provided to accept public comment and provide input for consideration on applications for, or renewals of, permits, registrations, plans or other approvals; and

WHEREAS, the DEP routinely extends comment periods where substantial public interest in a particular application exists; and

WHEREAS the circumstances surrounding the ongoing COVID-19 emergency and the Governor's direction to strictly observe the practice of social distancing, including suspending all non-essential retail business and construction, restricting travel and directing most employees to work remotely, with many of those individuals taking on child care and home schooling responsibilities in addition to their normal work responsibilities, may impact the ability of interested parties to provide public comment on pending applications; and

WHEREAS, recognizing these limitations, on May 2, 2020, Governor Murphy issued Executive Order No. 136 (EO 136 ), the facts and circumstances of which are adopted by reference herein, which, in relevant part, tolled statutory timeframes associated with certain DEP permit review and approval processes and directed me extend the regulatory timeframes to accept public comment on applications for, or renewals of permits, registrations, plans or other approvals as necessary to ensure adequate public participation; and

WHEREAS, EO 136 also recognized the need for the Department to continue to review applications within applicable timeframes to the maximum extent practicable or as otherwise necessary to satisfy its obligations of State implementation of a Federal program; and

WHEREAS, in accordance with EO 136, the Department has identified certain regulations and categories of processes where providing additional time for public comment beyond the minimum regulatory requirement is warranted under the present circumstances; and

NOW, THEREFORE, I, Catherine R. McCabe, Commissioner of the New Jersey Department of Environmental Protection, do hereby ORDER and DIRECT that the time periods provided by the applicable regulations shall be extended as follows:

1. The timeframes to provide public comment under the Coastal Zone Management Rules, N.J.A.C. 7:7, Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A, and Flood Hazard

Area Control Act Rules, N.J.A.C. 7:13, shall be extended by thirty (30) days for applications for individual and general permits, and modifications thereof.

2. The time to provide written statements of consent to areawide Water Quality Management Plans under N.J.A.C. 7:15-3.5(g)6 shall be extended from sixty (60) days to ninety (90) days.
3. The time to provide public comment on proposed amendments to areawide Water Quality Management Plans under N.J.A.C. 7:15-3.5(g)7, including any comment period established by a designated planning agency under N.J.A.C. 7:15-3.5(c), shall be extended from thirty (30) days to sixty (60) days.
4. The time to provide public comment on applications for water allocation permits under N.J.A.C. 7:19-2.7 shall be extended from thirty (30) days to sixty (60) days.
5. The time to provide public comment on applications for temporary dewatering permits under N.J.A.C. 7:19-2.7 shall be extended from fourteen (14) days to thirty (30) days.
6. The time to provide public comment on applications for a new water usage certification under N.J.A.C. 7:20A-2.5, including a renewal of a certification with major modification or major modification of a certification shall be extended from thirty (30) days to sixty (60) days.
7. The time to provide public comment on applications for a solid waste facility permit under N.J.A.C. 7:26-2.4 shall be extended from thirty (30) days (or fifteen (15) days after a public hearing is held) to sixty (60) days (or thirty (30) days after a public hearing is held).
8. The time to provide public comment on applications for a hazardous waste permit under N.J.A.C. 7:26G-1.4 shall be extended from forty-five (45) to seventy-five (75) days.
9. The time to provide public comment on applications for preconstruction permits under the Air Pollution Control Rules identified in N.J.A.C. 7:27-8.10(a)1 through 3, which does not otherwise define a minimum comment period, shall be sixty (60) days.
10. The time to provide public comment on draft operating permits under the Air Pollution Control Rules at N.J.A.C. 7:27-22.11 shall be extended from thirty (30) days to sixty (60) days.
11. The extensions set forth here shall not apply to any application where the public comment period is expired as of the date of this Order.
12. Notwithstanding the provisions of this Order, the Department may determine not to extend the time to provide public comment where an earlier decision is necessary:

- a. To satisfy its obligations of state implementation of a Federal program pursuant to Federal law; or
- b. For the protection of public health, safety and the environment or otherwise related to the Federal or State response to the COVID-19 pandemic.

13. Nothing in this Order is intended to limit in any way the Department's authority to, on a case-by-case basis, further extend time to provide public comment in a manner consistent with the applicable Department rules.

This Order is effective immediately and shall remain in effect until the expiration or revocation of EO 136, unless otherwise revoked or modified by me.

Date: May 8, 2020



Catherine R. McCabe  
Commissioner