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Client Alert: Governor Baker Issues Executive Order Concerning State Permits

BY CESIRA NEWCOMB • MARCH 27, 2020

Yesterday, Governor Baker issued an [Executive Order](#) affecting permits issued by the Commonwealth of Massachusetts as a result of the state of emergency declared in connection with COVID-19. The Executive Order applies to any “Approval” from a “State permitting agency” encompassing a broad range of agencies and actions. The Executive Order:

- **Permit Deadlines Tolled:** Any approval issued by a State permitting agency that was valid as of March 10, 2020 is tolled during the state of emergency and shall not lapse or expire. Thus, the expiration date for the approval shall be extended by the period of time of the state of emergency. If the approval included conditions with deadlines, the agency *may* extend the deadline for compliance or waive the condition if the permit holder is not able to meet the condition due to the state of emergency. However, the deadline is not tolled if the permit holder was in violation of the terms and conditions of the approval as of March 10, 2020.
- **No Constructive Approvals or Denials:** During the state of emergency, no approval shall be considered constructively approved, granted or denied as the result of the failure to act by the relevant state agency. The deadline for action will resume 45 days after the end of the state of emergency.
- **Hearing Deadlines Extended:** Any requirements that a hearing be held within a definite period of time after the filing of an appeal, decision, order, notice, petition or request is suspended. The deadline for action will resume 45 days after the end of the state of emergency.
- **Deadline to File Appeals Extended:** If the deadline for a person aggrieved by a decision or a final decision of a state permitting agency to file an appeal expires during the state of emergency, the deadline has been extended until 45 days after the termination of the state of emergency.
- **DEP Intended Use Plan:** The Executive Order also suspends the requirement that MassDEP conduct a public hearing before adopting its priority list or Intended Use Plan under its State Revolving Fund Regulations.

It is important to note that the Governor’s Executive Order only applies to permits and approvals issued by state agencies. [Bill H.4586](#) is pending before the Massachusetts Legislature to address issues concerning municipal permits.