



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

RICHARD E. CONSTABLE, III
Commissioner

December 10, 2012

Dear Construction Official:

As you may know, P. L. 2012, c.48, the Greenwald Jobs Creation Bill (A-1338) extends the expiration date of certain permits under the Permit Extension Act of 2008, P.L. 2008, c.78. Under this new law, the dates have changed, the definition of "environmentally sensitive areas" is modified and amendments have been made to the list of permits and approvals included and excluded under the Permit Extension Act. The other terms and conditions of the Permit Extension Act remain as they were. Below and attached please find updated guidance on the application of the Permit Extension Act which has been revised to reflect the new expiration dates.

As code officials, you will continue to deal with this law on two levels: its impact on permits issued under the UCC and its impact on prior approvals. The Act stops the clock on the running of approvals during the "extension period," which is now defined as January 1, 2007 through December 31, 2014. This means that any UCC permit that was valid as of January 1, 2007 will still be valid on December 31, 2014. On December 31, 2014, when the clock starts again, the permit is valid for an additional six months or for the time that would have remained on January 1, 2007, whichever is shorter. Any permit issued during the extension period (between January 1, 2007 and December 31, 2014) will be valid until June 30, 2015 (six months beyond the end of the extension period,) or until the date when it would have expired if the Permit Extension Act had not been passed, whichever is longer. (Some examples of how to apply the Permit Extension Act to UCC permits are enclosed.)

There continues to be an exclusion in the Act for permits issued for projects in environmentally sensitive areas. To determine whether your municipality or any portion of your municipality is an "environmentally sensitive area" as that term is defined in the Act, please refer to the enclosed attachment.

In order to determine whether a prior approval qualifies for extension under this Act, construction officials should check with the agencies and officials responsible for issuing those prior approvals to make sure that those prior approvals remain in effect. A list of the approvals included and of those excluded by the Act is enclosed.

In those cases where plan review was done by DCA, any plan release that was valid on or after January 1, 2007 may be used to support issuance of a permit through June 30, 2015. Once again, before issuing a permit, it is necessary to check with the agencies or officials involved to ensure that any required prior approvals remain valid.



Information, including the full text of the Act, is posted on the Division's website at for your use. (Direct link: http://www.njleg.state.nj.us/2012/Bills/A1500/1338_R4.PDF)

Should you have any questions about the application of the Permit Extension Act, please feel free to call the Code Assistance Unit at (609) 984-7607.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward M. Smith", with a long horizontal flourish extending to the right.

Edward M. Smith
Director
Division of Codes and Standards

Attachments: Definition of "Environmentally Sensitive Area"
List of permits included and excluded
Examples of Application to Permits Issued under the UCC

Permit Extension Act of 2008
Definition of "Environmentally Sensitive Area"

"Environmentally sensitive areas" include areas designated in the State Development and Redevelopment Plan as Planning Area 4B (Rural/Environmentally Sensitive), Planning Area 5 (Environmentally Sensitive), or a critical environmental site, but shall not include any "extension area."

An "extension area" is an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), Planning Area 4A (Rural Planning Area), a designated center, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to refine this definition as it pertains to Statewide planning areas, whichever is later; a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6); regional growth areas, villages, and towns, designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); the planning area of the Highlands Region as defined in section 3 of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-3), and any Highlands center designated by the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection. "Extension area" shall not include an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of P.L.2008, c.78, pursuant to P.L.1985, c.398 as Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive), except for any area within Planning Area 4B or Planning Area 5 that is a designated center, or a designated growth center in an endorsed plan.

Permit Extension Act of 2008
List of Permits and Approvals Included and Excluded

The law specifically **includes** UCC permits and includes the following: any approval of a soil erosion and sediment control plan granted by a local soil conservation district, any waterfront development permit, any permit issued pursuant to "The Wetlands Act of 1970," any permit issued pursuant to the "Freshwater Wetlands Protection Act," any approval of an application for development granted by the Delaware and Raritan Canal Commission, any permit issued by the New Jersey Meadowlands Commission, any approval of an application for development granted by the Pinelands Commission and determination of municipal and county plan conformance pursuant to the "Pinelands Protection Act," any permit issued or center designations made pursuant to the "Coastal Area Facility Review Act," any septic approval, any highway access permit or right-of-way permit granted by the Department of Transportation, any approval granted by a sewerage authority*, any approval granted by a municipal utilities authority, an agreement with a municipality, county, municipal authority, sewerage authority, or other governmental authority for the use or reservation of sewerage capacity, any approval issued by a county planning board, any preliminary and final approval granted in connection with an application for development pursuant to the "Municipal Land Use Law," any plan endorsement and center designations approved pursuant to the "State Planning Act," any permit or certification issued pursuant to the "Water Supply Management Act," any permit granted authorizing the drilling of a well, exemption from a sewerage connection ban granted*, wastewater management plan approved, and pollution discharge elimination system permit pursuant to the "Water Pollution Control Act," any certification granted pursuant to "The Realty Improvement Sewerage and Facilities Act," any certification or approval of water and sewerage facilities for 50 or more units granted pursuant to P.L.1971, c.386, any certification issued and water quality management plan approved pursuant to the "Water Quality Planning Act," any approval granted pursuant to the "Safe Drinking Water Act."

*Note: The continuation of an approval for connection to a sanitary sewer is contingent on the availability of sufficient capacity.

The law specifically **excludes** the following: any permit or approval issued by the government of the United States or any agency or instrumentality thereof, or any permit or approval for which the expiration is determined under Federal law; any permit or approval issued pursuant to the "Pinelands Protection Act," if the extension would result in a violation of federal law, or any State rule or regulation requiring Federal approval; any permit or approval issued within an environmentally sensitive area; any permit or approval within an environmentally sensitive area issued pursuant to the "Highlands Water Protection and Planning Act," or any permit or approval issued within the preservation area of the Highlands Region; any permit or approval issued by the Department of Transportation other than a right-of-way permit or a highway access permit; any permit or approval issued pursuant to the "Flood Hazard Area Control Act," except (a) where work has commenced in any phase or section of the development, on any site improvement or on any buildings or structures or (b) where the permit or approval authorizes work on real property owned by the government or the federal government; any coastal center designated pursuant to the "Coastal Area Facility Review Act," that as of March 15, 2007 (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with the provisions of the Coastal Zone Management Rules; any permit or approval within the Highlands planning area located in a municipality subject to the "Highlands Water Protection and Planning Act," that has adopted, as of May 1, 2012, in accordance with the Highlands Water Protection and Planning Council conformance approval, a Highlands master

plan element, a Highlands land use ordinance, or an environmental resource inventory, except that the provisions of this paragraph shall not apply to any permit or approval within a Highlands center designated by the Highlands Water Protection and Planning Council, notwithstanding the adoption by the municipality of a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory.

Permit Extension Act of 2008, as amended and extended by P.L. 2012, c.48
Examples of Applying the Act to UCC Permits

The Permit Extension Act extends all permits that were open and valid as of January 1, 2007. Under the UCC rules, a construction permit lapses if (1) no work is done for a year or (2) work, having been started, is discontinued for six months. (See NJ.A.C.5:23-2.16(b)) The following are some examples of how certain scenarios would be affected by the Permit Extension Act:

Examples:

1. A construction permit was obtained prior to January 1, 2006 and no work was done. The permit has lapsed and is not revived by the Permit Extension Act because it was not a valid, open permit on January 1, 2007.
2. A construction permit was obtained on April 1, 2006 and no work was done. The permit was deemed to have lapsed as of April 1, 2007. However, the permit is now deemed to have been revived by the passage of the Permit Extension Act. Since it would have been valid for three more months as of January 1, 2007, it will continue to be valid for three more months as of December 31, 2014, and its new expiration date, if it is not acted upon, will be March 31, 2015.
3. A construction permit was obtained on October 1, 2006 and no work was done. The permit would have been valid for nine more months as of January 1, 2007 and is now deemed to have been revived, and to continue to be valid as of December 31, 2014. However, since a permit that is only valid because it was extended by the Permit Extension Act can only remain valid for six months following the end of the extension period, the permit would only be valid for six more months, and would expire on June 30, 2015.
4. A construction permit is obtained between January 1, 2007 and June 30, 2014. Though the time would not begin to run until December 31, 2014, the permit would expire on June 30, 2015, since the Permit Extension Act does not allow any extensions beyond June 30, 2015 unless the permit would have continued in existence beyond that date had the Permit Extension Act not been adopted.
5. A construction permit is obtained after June 30, 2014. Since the permit is valid for a year, it is unaffected by the June 30, 2015 cut-off date and expires one year from the date of issuance, just as it would have if the Permit Extension Act had not been adopted.