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INFORMATION MEMO
ENVIRONMENTAL AND ENERGY

APRIL 10, 2020

Executive Order 202.15 Suspends Requirements for In-Person Public Hearings for Many Environmental Permits and Programs

Due to the ongoing state of emergency in New York State responding to the COVID-19 pandemic, Gov. Cuomo issued Executive Order 202.15 on April 9, 2020, which suspends numerous public hearing requirements under the Environmental Conservation Law (ECL) and the implementing regulations governed by the Department of Environmental Conservation (DEC), provided that written public comments are accepted instead. This means that applications pending before DEC—and any projects before other agencies (e.g., municipal boards) that would require hearings for their environmental review under the State Environmental Quality Review Act (SEQRA)—need not be delayed by an inability to hold a public hearing.

This Order covers, for example, hearings for environmental impact statements, wetland permits, mining permits, permits for waste transporters and waste disposal facilities and SPDES permits. It also suspends certain requirements for public meetings for Brownfield and State Superfund remediation sites and suspends certain in-person appearances, allowing these activities to be accomplished through electronic means instead.

Specifically, the Order directs that:

- Any public hearings required under the following ECL Articles and regulations are suspended, provided that public comments are accepted electronically or by mail:
    - Article 3 – DEC's General Functions, Powers, Duties and Jurisdiction;
    - Article 8 – SEQRA;
    - Article 9 – Land and Forests;
    - Article 13 – Marine and Coastal Resources;
    - Article 15 – Water Resources;
    - Article 17 – Water Pollution Control;
    - Article 19 – Air Pollution Control;
    - Article 23 – Mineral Resources;
    - Article 24 – Freshwater Wetlands;
    - Article 25 – Tidal Wetlands;
    - Article 27 – Collection, Treatment and Disposal of Refuse and Other Solid Waste;
    - Article 33 – Pesticides;
    - Article 34 – Coastal Erosion Hazard Areas;
    - Article 35 – Detergents and Other Household Cleansing Products;
    - Article 37 – Substances Hazardous or Acutely Hazardous to Public Health, Safety or the Environment;
    - Article 75 – Climate Change;
    - 6 NYCRR Part 550 – Mineral Resources - Promulgation and Enforcement of Rules and Regulations;
    - 6 NYCRR Part 552 – Mineral Resources – Permits to Drill, Deepen, Plug Back or Convert Wells;
    - 6 NYCRR Part 601 – Water Withdrawal Permitting, Reporting and Registration; and
    - 6 NYCRR Part 609 – Reclassification of Waters.

- Any public meetings required before selection of a final remedy at inactive hazardous waste disposal sites (under ECL Article 27) and public meetings at certain Brownfield Cleanup Program sites (under 6 NYCRR Part 375 – Environmental Remediation Programs) are suspended, provided that written comments on proposed remedies may be submitted and will be evaluated in the remedial decision.
- Public hearings required under the following provisions are suspended, provided that public comments may be accepted in writing (either electronically or by mail) and any required appearances may be conducted by teleconferencing or other electronic means:
    - The Uniform Procedures for DEC to process permits and conduct hearings under ECL Article 70 and 6 NYCRR Parts 621 and 624; and
    - Article 17 (Water Pollution Control) as implemented by 6 NYCRR Part 704 (Criteria Governing Thermal Discharges) and Part 750 (SPDES Permits).

The suspension of these requirements is now in effect until May 9, 2020. Applicants who had public hearings scheduled during the next month, or who expected to have public hearings or certain meetings conducted in the coming weeks, can work with the reviewing agencies to ensure public participation is still achieved and their application schedules remain on track.

If you are have questions about this Information Memo, please contact Robert R. Tyson, Michelle Billington, any attorney in the Environmental and Energy Practice Group, or the attorney at the firm with whom you are regularly in contact.

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