

Permit Extension Act of 2008
Frequently Asked Questions
Update#2 March 13, 2009

A. General Questions:

- 1. What is the effect of the Permit Extension Act's tolling of the expiration of approvals? Is a "tolled" approval extended to the end of the extension period (July 1, 2010) or to some time beyond the end of the extension period? (New)**

Under the PEA, the expiration date of an approval that would otherwise expire during the "extension period" of Jan. 1, 2007 through July 1, 2010 is stayed until July 1, 2010. After July 1, 2010, the permit expiration date is no longer stayed, but the remaining time that the permit is in effect cannot extend beyond December 31, 2010. This is because the PEA provides that any approval in existence during the extension period of January 1, 2007 through July 1, 2010 is tolled and therefore does not expire, but further provides that the PEA shall not extend any approval more than six months beyond the conclusion of the extension period (or more than six months beyond July 1, 2010). For example, under the PEA a permit with an expiration date of March 31, 2007 (i.e., with three months remaining on the permit as of January 1, 2007) would be extended until October 1, 2010 (or until three months after July 1, 2010). As another example, under the PEA a permit with an expiration date of July 1, 2008 (i.e., with 18 months remaining on the permit as of January 1, 2007) would be extended until December 31, 2010 (i.e., the permit would only be extended for six months after July 1, 2010 and would not be extended for 18 months after July 1, 2010).

- 2) Will the Department issue letters confirming that permits/approvals are extended under the Permit Extension Act of 2008? (Revised)**

The Department will not issue written documentation of extension for all permit/approval covered under the Act. The Department is providing the regulated community with the tools and information necessary to determine whether their permit/approval is subject to the Permit Extension Act of 2008 and if requested, programs may issue response letters to permit-specific requests.

- 3. Who do I contact if I have questions regarding the Department's implementation of the Permit Extension Act of 2008?**

The Department has established these web pages to provide some basic resources and information to address questions that the regulated community may have regarding implementation of the Permit Extension Act of 2008. If the website does not address the particular circumstances of a permit holder or applicant, questions may be submitted to the Office of Permit Coordination at <http://www.nj.gov/dep/opppc/permitcoor.htm>. A form to submit questions is available on the website.

The website and the Frequently Asked Questions will be continuously updated in an effort to keep the public informed.

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- 4. Will the Department respond to requests for a written response regarding whether or not my permit/approval is subject to Permit Extension Act of 2008, and if so, what is a likely time frame for the Department to respond to such a request?**

The Department has developed these web pages to minimize the potential need for written documentation as to whether or not a permit/approval is covered under the Permit Extension Act of 2008. However, should you request a written determination, the Department will respond as quickly as possible. The time frame for response will vary based on the number of such requests submitted and the completeness of the information provided with the request.

- 5. How do I determine if my permit/approval is within an *environmentally sensitive area*? (Revised)**

The department has posted a web page with written instructions for applicants to use its I-Map application. This environmental mapping tool can be used to determine whether or not a site or portion of a site is located in an environmentally sensitive area as defined by the Permit Extension Act of 2008. I-MapNJ DEP is accessed at <http://www.nj.gov/dep/gis/depsplash.htm>. This website includes both a link to launch I-MapNJ DEP and a link to a tutorial. The [Oct/Nov 2008](#) release that includes the Critical Environmental and Historic Sites layer; Pinelands Management Areas and 7 other layers have been updated.

- 6. How are permit extensions granted for permits issued pursuant to the Construction Permits Law, N.J.S.A. 13:1D-29 et seq. (90 Day Law) affected by the Permit Extension Act of 2008?**

Permits that have been extended pursuant to the Permit Extension Act of 2008, that are eligible for extensions of time under the Construction Permits Law, may apply for additional time extensions up to the five year limit authorized under the Construction Permits Law. Any additional time that was granted under the Permit Extension Act of 2008 may not be counted towards the five year total time under the Construction Permits Law. Any extensions unused as of June 30, 2010 may still be available for use.

B. Program-Specific questions:

Water Quality

- 1. What is the status of NJPDES Discharge to Ground Water (DGW) Permits?**

Expired NJPDES DGW Permits for facilities that meet the conditions of the Act are extended in accordance with the requirements of the Act. Expired NJPDES DGW

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Permits for facilities that have been constructed and are in operation are “continued in force” in accordance with the NJPDES Rules at N.J.A.C. 7:14A-2.8. Thus, these permits are administratively extended until they are renewed and no further action is needed by the permittees. These permits shall continue to be renewed and/or modified as appropriate. Permittees should continue to apply for permit renewals in accordance with N.J.A.C. 7:14A-4.2(e)(3). Permits that are in Environmentally Sensitive Areas that have either not been constructed, have been constructed but are not yet operating, or that are operating, are “continued in force” in accordance with the NJPDES Rules at N.J.A.C. 7:14A-2.8.

2. What is the status of NJPDES Treatment Works Approvals (TWAs)?

Expired NJPDES TWAs, that meet the conditions of the Act, are extended in accordance with the requirements of the Act.

3. What is the status of NJPDES Residual Permits and Approvals?

Expired NJPDES Residual Permits, associated Letters of Land Application Management Approval, and NJPDES Permit Exemption - General Distribution Approvals, for facilities that have been constructed and are in operation are “continued in force” in accordance with the NJPDES Rules at N.J.A.C. 7:14A-2.8. This means that these permits are administratively extended until they are renewed and no further action is needed by the permittees. These permits shall continue to be renewed and/or modified as appropriate. Permittees should continue to apply for permit renewals in accordance with N.J.A.C. 7:14A-4.2(e)(3). Permits that are in Environmentally Sensitive Areas that have either not been constructed, have been constructed but are not yet operating, or that are operating, are “continued in force” in accordance with the NJPDES Rules at N.J.A.C. 7:14A-2.8.

4. What is the status of all other NJPDES Permits?

NJPDES Discharge to Surface Water, NJPDES Significant Indirect User, and NJPDES Stormwater Permits are exempt from the Act because they are federal delegated permits as specified in Section 4b of the Permit Extension Act of 2008. Permittees should continue to apply for permit renewals in accordance with N.J.A.C. 7:14A-4.

5. What is the status of 50 or More Realty Improvements?

50 or More Realty Improvements do not have expiration dates and continue to be in effect until the project is constructed or modified by the permittee.

6. What is the status of Permits to Construct Individual Subsurface Sewage Disposal Systems (ISSDS) issued by local health departments?

Expired Permits to Construct ISSDS, that meet the conditions of the Act, are extended in accordance with the requirements of the Act.

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7. If I have initiated construction on a treatment works, how am I affected by the Permit Extension Act?

If you have initiated construction on a treatment works before the expiration date of the TWA, the TWA is considered to be in effect and further time extensions are not required. However, if construction has been interrupted for a period of more than two years, the Department, at its discretion, may revoke the TWA and deny future time extension requests, in accordance with N.J.A.C. 7:14A-22.12(e).

8. Due to site conditions, I need to modify my TWA. How am I affected by the Permit Extension Act of 2008 ?

The Department will continue to process modifications to the TWA in accordance with N.J.A.C. 7:14A-22.11.

As stated above, in accordance with the extension of time provisions found in N.J.A.C. 7:14A-22.12(e), if you have initiated construction on a treatment works before the expiration date of the TWA, the TWA is considered to be in effect and further time extensions are not required.

However, if you have not initiated construction, the expiration date of the permit will be subject to the policy established for those applications subject to the Permit Extension Act of 2008.

9. My project is within an environmentally sensitive area denoted in the Permit Extension Act of 2008. How am I affected by the Permit Extension Act of 2008 ?

If your project is in any of the environmentally sensitive areas denoted in the Permit Extension Act of 2008 , the expiration date for the TWA is not automatically extended. However, such TWAs will still be subject to the extension of time provisions in N.J.A.C. 7:14A-22.12, and such TWAs may be extended beyond the original two year approval date, to a maximum period of five years from the original issuance date. Each extension, if granted, will be for a maximum period of one year.

10. My TWA was to expire in 2007, but I have already received a one-year time extension on my TWA. How am I affected by the Permit Extension Act of 2008 ?

The Permit Extension Act of 2008 covers those permits that expire between January 1, 2007 and July 1, 2010. Due to the one-year time extension you received for the TWA, the permit would expire in 2008. However, the TWA may be automatically extended to

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July 1, 2010, in accordance with the policy established for those applications subject to the Permit Extension Act of 2008.

Land Use Regulation

- 1) Does the Permit Extension Act of 2008 extend permits issued pursuant to the Flood Hazard Area Control Act (“Flood Act”) for development projects on which work has commenced prior to the expiration of the permit? Or does the Permit Extension Act exclude all Flood Act permits for development that was not under construction on September 6, 2008, the date Governor Corzine signed the Act? (New)**

Flood Hazard Area Control Act permits issued pursuant to 58:16A-50 et seq. where work has commenced, as of the expiration date of the permit, in any phase or section of the development, on any site improvement or on any building structure shall be extended according to the Act.