

# MASSACHUSETTS PERMIT REGULATORY OFFICE

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## CHAPTER 43E - EXPEDITED STATE PERMITTING PROGRAM

### WHAT IS 43E?

The 43E Expedited State Permitting Program promotes the expedited permitting of commercial, industrial, residential and mixed-use projects on sites with dual designation as a "Priority Development Site" under M.G.L. c. 43D and a "Growth District" by the Executive Office of Housing and Economic Development (EOHED). The program requires all state agencies, commissions, departments, and other state entities who participate in the Massachusetts Environmental Policy Act (MEPA) review process and are responsible for issuing permits for projects proposed on such sites to review and take final action on a permit application within 180 – 210 calendar days or else the permit is automatically granted. The program also encourages state permit issuing authorities to work together, wherever possible, to streamline the permit review process.

### WHO QUALIFIES?

In order to qualify for the 43E program, the project must be located entirely within a Growth District and 43D site. Communities with Growth Districts designated by EOHED have the opportunity to designate 43D Priority Development Sites within their Growth Districts, which will automatically make the site eligible for the 43E program.

### WHAT IS 43D LOCAL EXPEDITED PERMITTING?

In August 2006 Chapter 43D Permitting was enacted into law, allowing municipalities the opportunity to “opt-into” a program offering 180-day local permitting on select Priority Development Sites (PDS). Should communities not meet the 180-day obligation, the permits are constructively approved giving the developer transparency and predictability of process. The program enables cities and towns to attract development to targeted sites through a streamlined local permitting process, and it enables the state to maintain an inventory of promising development parcels for commercial, residential and mixed-use development. In return for adopting Chapter 43D, participating cities and towns receive priority consideration for discretionary infrastructure programs and marketing assistance from a state partner. For more information please visit: <http://www.mass.gov/hed/business/licensing/43d/>

### WHAT IS A GROWTH DISTRICT?

Under its "Growth Districts Initiative", EOHED partners with municipalities that have identified one or more areas within their communities as being appropriate locations for significant new growth, whether commercial, residential or mixed-use. What constitutes significant new growth will vary among communities and regions, but in all cases, the community must be committed to

planning ahead not just for identified new construction that is ready to break ground in the short term, but more broadly for future development within the growth district over an extended period of time (five, ten or twenty years). For more information please visit:

<http://www.mass.gov/hed/economic/eohed/pro/gdi/>

### **WHAT IS EXPEDITED STATE PERMITTING?**

Expedited State Permitting requires all state agencies, commissions, departments, and other state entities responsible for issuing permits for projects proposed on 43E sites to review and take final action on a complete permit application within 180 calendar days, or 210 calendar days for permit review processes requiring a public comment period.

### **AT WHAT POINT IS A PROJECT ELIGIBLE FOR EXPEDITED STATE PERMITTING?**

In order to be eligible for 43E Expedited State Permitting, the project must first go through the MEPA review process. Through the MEPA process the project will have an identified list of required state permits. It is strongly encouraged, but not required, that the proponent notifies MEPA in writing of the project's 43E status prior to submitting the application. The MEPA review process is complete once the project proponent has received a completion certificate from the Secretary of Energy and Environmental Affairs.

### **ALL STATE PERMITS HAVE BEEN IDENTIFIED, WHAT IS NEXT?**

Once the MEPA review process is complete the proponent is eligible to apply for permits to the required issuing authorities, identified through the MEPA review process. The proponent is required to include the following materials with a permit application in order to request review under the 43E 180 or 210 day timeframe:

1. A locus map and a resource area map at the appropriate scale as verified by the applicable authority or an alternative site specific determination by that authority that establishes the following:
  - a. The project parcel is located entirely within a 43D Site.
  - b. The project parcel is located entirely within a "Growth District."
  - c. The project parcel is not in a wetland, tideland, priority habitat as delineated, or an area of critical environmental concern as designated by the Secretary of Energy and Environmental Affairs.
2. A certificate issued by the Secretary of Energy and Environmental Affairs indicating that the MEPA review process is complete.
3. Written notice to each issuing authority indicating that the permit application is being submitted under the 43E Program.

If a project includes the disposition of state property, the applicant is also strongly encouraged to notify the Division of Capital Asset Management (DCAM) of the project's eligibility for 43E Expedited State Permitting at the beginning of the MEPA review process.

The proponent is responsible for applying for the necessary permits with complete applications. The issuing authority will then have 20 business days to review the application and notify the proponent of its completeness.

#### **IF THE APPLICATION IS COMPLETE:**

The issuing authorities shall notify the applicant within 20 business days of the application's completeness. The 180 or 210 day formal permit review period will begin on the calendar day following the day the issuing authority notifies the proponent, in writing, that the application is complete. If the issuing authority does not notify the applicant within the 20 day period the review period will begin the following day after the 20 business day application review period.

#### **WHAT HAPPENS IF THE ISSUING AUTHORITY FAILS TO MEET THEIR DEADLINE?**

Failure by an issuing authority to take final action on a complete permit application within the permit review period shall be considered an automatic grant of the permit requested, except in very limited cases of a permissible extension.

#### **WHEN MAY AN EXTENSION OR WAIVER BE GRANTED?**

The 180 or 210 calendar day permit review period may be waived or extended for good cause upon written request. The request can be made by the proponent with the consent of the issuing authority or by the issuing authority with the consent of the proponent. The written request shall include all of the reasons why the extension is sought. The party who receives the request shall agree to or deny the extension within 10 business days by notifying the requesting party of its decision in writing, via mail or electronic mail.

#### **ROLE OF THE STATE PERMIT OMBUDSMAN**

Appointed by the Governor, the State Permit Ombudsman facilitates conversation between the project proponents and the issuing authorities. Throughout the 43E Permitting process the proponent has the opportunity work with the Permit Ombudsman to coordinate pre-application conferences and, or discuss the status of the pending permit applications.

In addition to the optional coordination, the Permit Ombudsman is included in a series of steps during the process. Issuing authorities are required to inform both the applicant and State Permit

Ombudsman if the permit will not be granted or if the permit review period is extended without the consent of the proponent. If the permit review period is extended and neither the issuing authority nor the proponent can agree upon the extension the Permit Ombudsman is to be notified to facilitate the conversations. Furthermore, if the issuing authority does not take action during the 180 or 210 review period the proponent is to notify both the Permit Ombudsman and issuing authority of the automatic approval.

**WHERE ARE THE 43E SITES LOCATED?**

A total of 11 communities currently qualify as 43E as of July 31, 2012:

<b>MUNICIPALITY</b>	<b>43E STATE EXPEDITED PERMITTING SITE</b>
Attleboro	Attleboro Business Park
Burlington	Northwest Park
Chicopee	Chicopee River Business Park
Lawrence	Riverwalk Redevelopment
New Bedford	Fairhaven Mills & Downtown Hotel
Lowell	Hamilton Canal
Pittsfield	William Stanley Industrial Park
Everett	River's Edge
Revere	Waterfront Square
Worcester	City Square
Fall River	SouthCoast Life Science Technology Park

If you have concerns or questions please contact:  
Victoria Maguire, State Permit Ombudsman/Director, Massachusetts Permit Regulatory Office  
Phone: 617-788-3649  
Email: [Victoria.Maguire@state.ma.us](mailto:Victoria.Maguire@state.ma.us)

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