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Regulatory and climate changes will impact development

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As we ring in 2013, we look ahead to the challenges for developers in New England. The federal Wind Energy Tax Credit has been extended at the last minute as part of the American Taxpayer Relief Act of 2012 (“ATRA”) (the bill that avoided the “fiscal cliff”), for one year and will apply to projects begun in 2013 but that may not be operational until 2014. ATRA also included extensions for depreciation on certain qualified properties including most renewable energy facilities. A wake-up call came last November in the form of Super Storm Sandy, causing loss of life and destruction to residential and commercial property with enormous economic impact along the northeast coastlines. Implementation of the Massachusetts programs and the continued debate about global warming, sea-level rise, and climate control are now front and center: do we move to remedy the cause, treat the result, or devote resources to both? At the close of the Massachusetts Legislative Session in December 2012, a bill was enacted to provide funding (via the Water Pollution Abatement Trust) to repair and replace dams owned by the Commonwealth and to protect seawalls and jetties damaged in storms (an example of treating the impact of super storms rather than the cause). The scarcity of resources in Massachusetts has forced a practical response at the Department of Environmental Protection, by streamlining various regulatory programs, which will quicken the pace of development and reduce some of the permitting costs. Proposed are modifications to regulations to streamline, reduce duplication, incentivize innovation (e.g. solar photovoltaic (PV) systems at closed landfills) and compliance, and focus on complicated projects and repeat offenders.

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