

Environmental ALERT

Site Remediation Reform Act and Licensed Site Remediation Professional Program Signed into Law

On May 7, 2009 New Jersey's Site Remediation Reform Act (SRRA) and Licensed Site Remediation Professional (LSRP) Program was signed into law. This new legislation will have a major impact on both the remediation and redevelopment of contaminated sites and the relationship between environmental professionals, their clients, and the NJDEP.

Key components of the new legislation include:

- LSRPs will oversee and approve remediation with reduced NJDEP involvement.
- LSRPs highest priority is to protect public health and safety and the environment ("License to Protect").
- LSRPs must notify the NJDEP within 15 days of being retained or released, confirm Immediate Environmental Concerns (IECs) and discharges, disclose deviations by remediating party, preserve all remediation documents, and cooperate fully in investigations.
- LSRPs will issue Response Action Outcome (RAO) instead of No Further Action (NFA) determinations.
- Mandatory remediation time frames have been established to force timely action on

cleanups by remediating parties.

- Presumptive Remedies (i.e. unrestricted use) have been established for schools, day care centers, and residential properties.
- New permit program will manage compliance inspections for Engineering Controls (caps) and Institutional Controls (Deed Notices/ CEAs) in lieu of biennial inspections.
- NJDEP is required to inspect all LSRP submissions and can audit LSRP submissions based on:
 - High Priority
 - Future use (child care center, school or sensitive population)
 - State grants or loans are being used to remediate the site
 - Site is in a Brownfields

Development Area (BDA)

- Site is subject to Federal oversight
- The LSRP or responsible party is out of compliance with applicable laws
- Significant public interest
- Impacted natural resources
- Proposed alternate remediation standards
- Site use is changing to residential or mixed use.
- NJDEP Direct Oversight will be required on cases where the project has a history of non-compliance, failure to meet mandatory timeframes, remedial investigations completed by May 2014, chromium sites, natural resources damages or where sediments are contaminated by PCBs, mercury, arsenic, or dioxin.

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- Under Direct Oversight, the NJDEP will select the remediation remedy and the responsible party will have to establish a Remediation Trust Fund in the full amount of the estimated cost of the remedy. LSRP submissions will be sent to the NJDEP and the responsible party simultaneously, and the NJDEP will establish an approved public participation plan.
- The NJDEP Standard to overturn a RAO is that the remedial action is not protective of public health and the environment. Cases can be reopened up to 3 years after a RAO is issued based on undiscovered contamination or if the LSRP is under investigation or has had their license revoked/suspended.

While existing projects can continue to be managed under the traditional NJDEP case manager oversight system, the NJDEP is beginning to steer responsible parties into the new LSRP program starting in November 2009. Failure to strictly adhere to the requirements of the new LSRP program can result in management of the project under NJDEP Direct Oversight and can result in costly delays.

A successfully managed project under the LSRP program can significantly reduce NJDEP regulatory review delays and allow projects to be completed in a timely manner. BSG will have both LSRP and non-LSRP technical staff to appropriately manage clients' assessment, compliance and transaction needs.

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