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**RT ENVIRONMENTAL SERVICES, INC.**

*Your Solution-Oriented Environmental Services Firm*

## **NJ Site Remediation and Reform Act - Options for Property Sellers/Buyers and Those Undertaking Remediation**

New Jersey's Site Remediation Reform Act (SRRA) became **effective on November 7, 2009**.

Remediation projects in NJ are now privatized as they have been for years in Connecticut, Massachusetts and Ohio. Initial indications are that the new NJ Remediation Program is appropriate and reasonable, and some of the pitfalls which are associated with other state's programs have better approaches in the NJ SRRA Program.

Here are some of the important and key elements:

- Licensed Site Remediation Professionals (LSRPs) will now run most cleanups without waiting for Department of Environmental Protection approval of work plans.
- When the cleanup is completed, a Response Action Outcome (RAO) statement will be issued by the LSRP. This has similar status as the previous NFA/CNS\* DEP determination, although DEP can audit projects for up to three years (\*No Further Acton/Covenant Not to Sue).
- There are new, tighter contaminant release DEP reporting requirements that LSRPs and Owners must adhere to.
- Once a release is reported, there is an affirmative obligation to remediate the release.
- There are various types of remediation that can be performed, from monitoring to large scale excavation or capping. There are DEP approved "Presumptive Remedies" available for use.
- There are mandatory timeframes for compliance. These appear to be reasonable and are not expected to present a problem for most projects.
- There will still be interface with DEP for certain permits, particularly when there are offsite groundwater issues. Classification Exception Areas where there will be natural attenuation of groundwater contaminants or *in situ* treatment of groundwater contaminants will still be allowed.
- LSRPs will be allowed to issue project "waivers" from certain Technical Requirements for Site Remediation provisions. Justification for the waiver(s) must be provided.
- DEP will still issue NFAs for Unregulated Heating Oil Tanks.
- There are modifications to the DEP fee requirements.

- RAO's can be issued for a Preliminary Assessment which find no AOC's warranting further action.
- Biennial Certification requirements will not change...these are to be included in Remedial Action Permits in the future.
- General Permit 4 (authorizing activities in freshwater wetlands, transition areas, and state open waters) has been amended to include remedial actions.
- Financial assurances will be required for the new Site Remediation Permits.
- Free product and/or residual and dissolved contaminants in groundwater must be removed and/or treated.
- With the exception of site-wide historic fill contamination, it is necessary to address the impact to groundwater and surface water pathways where there is potential for contaminant impact.
- All backfill/fill material is required to meet soil remediation standards determined by the DEP.
- Contaminated soils that exceed acute exposure soil levels will have to be removed and/or treated.

#### Mandatory Deadlines

- Clock starts 3/1/2010.
- Interim Rule:
  1. Preliminary Assessment/Site Investigation - 1 year
  2. Immediate Environmental Concerns (10/5/09 DEP Draft Guidance Posted) - 1 year
  3. LNAPL - 1 year
  4. Receptor Evaluation - 1 year
- Immediate Environmental Concern Sites - Required beginning of Remediation if exceed IEC vapor limits within 2 months. All free product must be removed.

RT already has a significant number of LSRP projects underway. Clients planning to sell or buy property in NJ should call for consultation before deciding on a due diligence approach, due to certain aspects of the new rules. You can call:

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Justin Lauterbach	215-370-6554
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to discuss what is the best approach for your transaction.

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