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Subject: IF YOU ENCOUNTER TRASH IN NEW JERSEY WHEN YOU ARE DIGGING – WHAT SHOULD YOU DO?

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IF YOU ENCOUNTER TRASH IN NEW JERSEY WHEN YOU ARE DIGGING - WHAT SHOULD YOU DO?

Press Release

Substantial changes are taking place in the New Jersey Site Remediation Program, under the Site Remediation Reform Act. Those completing site investigation work, and excavating materials in New Jersey, need to know that Solid Waste Rules can apply where there is buried waste, particularly waste if the trash deposited is considered part of a landfill.

Excavating into a landfill area, which may or may not be permitted can result in criminal penalties, because landfill disruption permits must be obtained, prior to excavating deposited waste. Recent update information on the Site Remediation Reform Act, relating to the finding of waste materials as an "Area of Concern", did not also make it clear that site investigation professionals or those excavating on Linear Construction Projects (LCPs) must make sure that they are not disrupting a landfill when they are investigating waste deposits or digging out impacted "soil".

Here are key issues with respect to waste and soil remediation that you need to be aware of:

- One can't answer a question about approval to excavate waste without substantial information. If landfill disruption is subject to Solid Waste Rules at N.J.A.C. 7:26-2A then Administrative Requirements for the Remediation of Contaminated Sites (ARRCS) and Tech Rules apply when there is planned development for human occupancy or when the person conducting remediation wants a Response Action Outcome (RAO).
- If there is a landfill or disposal area on an industrial property undergoing remediation, the owner of the industrial property is already required to delineate and remediate the landfill Area of Concern to be issued an RAO.
- If there is an old pre-1982 municipal landfill with no planned development, one needs a disruption permit to excavate but, no delineation is required for the LCP, since there will be no RAO. Any post-1982 landfill or landfill with a Closure Plan Approval requires a modification to the Closure Plan Approval prior to excavating.
- If a landfill has received a No Further Action (NFA) determination or if a RAO with a Deed Notice has been issued, the Deed Notice would have to be reopened to adjust for excavation for the LCP as well.

Consultants investigating sites in New Jersey must be aware of Solid Waste Rule requirements because penalties for disrupting landfills without obtaining approvals in advance can be severe. We hope that these key points are helpful.

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