

# Environmental Alert



## *2014 REMEDIAL ACTION DEADLINE EXTENDED*

As many facilities with remediation cases still open with the New Jersey Department of Environmental Protection (NJDEP) may have already discovered, the agency is using the statutory authority granted to it by the New Jersey Legislature to require parties responsible for hundreds of older, open, and seemingly dormant cases to finish their remedial investigation (RI) work under a strict deadline. Under the Site Remediation Reform Act (SRRA) – the same act that created New Jersey’s Licensed Site Remediation Professional (LSRP) program – responsible parties now have an “affirmative obligation” to conduct remediation. The SRRA also set deadlines and requirements for hiring an LSRP, performing an Initial Receptor Evaluation, initiating contaminant source control, submitting a report to the NJDEP, completing a remedial investigation, and initiating measures for light non-aqueous phase liquid contaminants, all within two years of March 1; 2010. In addition, parties responsible for the remediation are required to “complete the remedial investigation” for “the entire contaminated site” in cases where the discharge of contamination was discovered (or should have been discovered) prior to May 7, 1999. This must be done before May 7, 2014 or, for more recent cases, within 10 years of the discovery of the discharge at the site. Failure to do so subjects the responsible party to fines, penalties, and increased scrutiny of the remediation by the NJDEP.

Fortunately, lawmakers in Trenton have eased the pressure a bit by creating a mechanism for obtaining an extension of the May 7, 2014 statutory deadline. Under a newly released Act (A4543) amending P.L. 2009, c.60, the time allowed for the completion of the RI may now be extended for up to two years, with a new deadline of May 7, 2016. The Act has been approved by the Senate and General Assembly, and was signed into law by Governor Christie on January 21, 2014.

This extension is **not** automatic. The responsible party must file an electronic application for the extension, and certain conditions must be met before the Department will allow the additional time. The applicant must certify, in a document electronically submitted by the LSRP retained by the applicant, that the following conditions have been met:

1. An LSRP has been retained to conduct the remediation.
2. Any remediation requirements included in the mandatory remediation timeframes for the site have been met at the time of the certification.
3. Technically complete submissions in compliance with all rules (as applicable) have been made for the (a) initial receptor evaluation, (b) immediate environmental concern source control report, (c) light non-aqueous phase liquid remedial measure report, (d) preliminary assessment report, and (e) site investigation report.
4. A remediation funding source has been established.
5. If a remediation funding source is not required, then a trust fund for the estimated cost of the remedial investigation has been established.
6. Any oversight costs imposed by NJDEP (and not in dispute) have been paid.
7. All fees imposed by NJDEP for the remediation and remediation funding source surcharges have been paid.

The deadline to file for this extension is 30 days after the date of enactment of the bill into law, which is March 21, 2014. Failure to meet either the original May 2014 remedial Investigation deadline or successfully apply for an extension subjects the facility to direct oversight of the case by the NJDEP (instead of the LSRP) and a loss of control over many critical project decisions such as the selection of a final remedy at the site.

This newsletter is for information purposes only and does not represent legal or technical advice.

If you need a more detailed explanation of this bill, or need assistance in interpreting how it may impact your site, the EJIF suggests that you contact the EJIF environmental consultants for further information.

Members of the Bergen, Morris, South Bergen, Suburban Essex, and NJUA JIFs please contact Richard Erickson of First Environment, Inc. at [rerickson@firstenvironment.com](mailto:rerickson@firstenvironment.com) or 973.334.0003.

Members of the Camden, Monmouth, Ocean, PMM, Suburban, Central, TRICO and BURCLO JIFs, please contact Christopher Gulics of T&M Associates at [cgulics@tandmassociates.com](mailto:cgulics@tandmassociates.com) or 732.671.6400, x9505.

