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Alert

NJDEP Warns of May 7, 2014 Remedial Investigation Deadline for Older Sites

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NJDEP has undertaken an all-out advisory blitz regarding the upcoming statutory deadline for completing the remedial investigation of sites with a pre-May 7, 1999 discharge.

Pursuant to the Site Remediation Reform Act (*N.J.S.A.* 58:10C-1 *et seq.*), responsible parties investigating contamination that was identified, or should have been identified on and offsite, prior to May 7, 1999 must complete the remedial investigation of their site and all impacted sites by May 7, 2014. Since this deadline is statutory, it may not be extended. The investigation must encompass all contaminants in the site's soil, groundwater, surface water, sediment and air, as well as any contamination which has migrated or is migrating to offsite properties. Failure to comply carries stiff penalties. NJDEP has mailed letters to all "persons responsible for conducting remediation" and created a website explaining the deadline and submission requirements.

To comply, responsible parties and "persons responsible for conducting remediation" must submit to NJDEP a remedial investigation report discussing actions taken to determine the nature and extent of contamination, an updated receptor evaluation, and a determination of whether a remedial action is required at the site (pursuant to the Technical Requirements, *N.J.A.C.* 7:26E- 4.9) by the May 7, 2014 deadline. According to NJDEP guidance recently issued, the agency has determined that a remedial investigation will be deemed "complete" only when the Licensed Site Remediation Professional (LSRP) retained to investigate the site can conclude in his/her professional judgment that there is sufficient information to (1) know the nature and extent of contamination both onsite and offsite; (2) know which, if any, receptors have been or may be impacted by the discharge being remediated; and (3) select an appropriate remedial action to protect public health and the environment. Accordingly, sufficient delineation of all onsite and offsite contamination must be completed before this deadline.

Responsible parties must comply with the May 7th submission requirements to avoid becoming subject to NJDEP's direct oversight program and significant penalties. The consequences of NJDEP direct oversight include relinquishing control of remedy selection and implementation (which will then be directed by NJDEP), establishing a remediation trust fund in the amount of the estimated cleanup cost, and potential penalties of up to $25,000 per day until the remedial investigation is completed.

Submission of a remedial investigation report that indicates a site's investigation is still ongoing will be deemed noncompliant, and will likely subject the site to NJDEP direct oversight and statutory penalties.

If you have received a notification letter from NJDEP or think you may be subject to this compliance advisory, please contact Heidi Minuskin or Josh VandenHengel to discuss cost-effective ways of addressing your compliance obligation.