

Update: Remedial Investigation Deadline Extended

For many struggling to meet the May 7, 2014 statutory deadline for the completion of remedial investigations, new legislation granting a two-year extension may provide a welcome reprieve. On January 21, 2014, the Governor signed S-3075, the Site Remediation Extension of Time bill, which extended the 2014 deadline until May 7, 2016. To qualify for the extension, however, the responsible party must submit an application, and potentially establish a Remediation Trust Fund, by **March 7, 2014**.

Prior to passage of this law, environmental investigations and remediations falling into either of the following two categories were required to meet the May 7, 2014 deadline:

- matters in which contaminated Areas of Concern ("AOCs") were identified on or before May 7, 1999, and
- matters in which AOCs should have been identified based on the obligation to complete a preliminary assessment and/or site investigation on or before May 7, 1999, pursuant to the Industrial Site Recovery Act ("ISRA") regulations, Underground Storage Tank ("UST") regulations, Administrative or Court Order, a Remediation Agreement, or a Spill Act Directive.

The exemption is not, however, automatic and the responsible party must submit an application setting forth and certifying to the following information by **March 7, 2014**:

- all required compliance reports have been submitted (i.e., initial receptor evaluation, immediate environmental concern source control report, light non-aqueous phase liquid interim report, preliminary assessment report and site investigation report);
- all outstanding New Jersey Department of Environmental Protection ("NJDEP") oversight costs have been paid; and
- all NJDEP annual fees for remediation and remediation funding source surcharges have been paid.

In addition, the responsible party is required to certify that it has retained a Licensed Site Remediation Professional ("LSRP") and is in compliance with applicable remediation timeframes and other requirements. Further, if a Remediation Funding Source is not already in place, a Remediation Trust Fund must be established by March 7, 2014, in the amount estimated to complete the remedial investigation. We urge that if you will be required to provide this Remediation Trust Fund you initiate efforts with your bank

UPDATE

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as soon as possible due to the time necessary to secure this financial instrument. This process should be started even before the application is completed.

In light of the short deadline, it is imperative that sites seeking this extension immediately begin the process of applying for the Remediation Trust Fund, if necessary, and gathering the necessary information for the certification. NJDEP has advised that it expects that the application form will be available for submittal, through the Department's electronic portal, no later than the second week in February. In the interim, the NJDEP will be posting information on its website concerning the extension and related issues. We will be monitoring the NJDEP website for these updates and the application form. If you have any questions or would like assistance in obtaining this extension, please contact [Lisa Bromberg](#) or [Tom Spiesman](#).