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Governor Corzine Signs Site Remediation Reform Act

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On May 7, 2009, Governor Jon Corzine signed into law the Site Remediation Reform Act (the “Law”) that will overhaul the way investigations and cleanups are done in New Jersey. The Governor concurrently signed Executive Order #140 that clarifies certain provisions to the Law (<http://www.state.nj.us/infobank/circular/eojsc140.htm>). The Law addresses the overburdened New Jersey Department of Environmental Protection (“DEP”)’s current staff, budget constraints and case backlog by creating a Licensed Site Remediation Professional (“LSRP”) program. The LSRPs are environmental consultants with specified education and experience who perform investigations and remediation at sites in New Jersey. The legislation, sponsored by Senator Bob Smith, was passed by the New Jersey Senate on March 16, 2009.

The Law identifies who may become LSRPs, establishes their qualifications, licensing procedures, and a code of conduct and defines their role in the remediation process. In addition, the Law establishes a separate Site Remediation Professional Licensing Board (“Board”), tasked with creating standards for education, training and experience that will be required of any person who applies for a license or a license renewal. The Board conducts examinations to certify that an applicant possesses sufficient knowledge of the state regulations, standards and requirements applicable to site remediation and the applicant is qualified to obtain a license or a license renewal.

The Law calls for rules and regulations to be adopted no later than 18 months after enactment to implement the LSRP program. However, since it will take some time for this Law to be fully developed and implemented, the Law calls for an interim licensing program to be established within 90 days of enactment. Those seeking a temporary LSRP license must have the same qualifications as a full LSRP, as well as one of several professional certifications (i.e., certified hazardous materials manager from the Institute of Hazardous Materials Management, a certified groundwater professional from the National Groundwater Association, a licensed professional engineer from the National Council of Examiners for Engineers). Further, an applicant for a temporary LSRP license must show that they have existing current site remediation experience.

Within 180 days of the effective date of the Law, any submissions concerning the remediation of a contaminated site must be signed and certified by both the person responsible for conducting the remediation and the LSRP. The LSRP's certification will state that the work was performed, that the LSRP managed, supervised or performed the work and that the work and submission conform to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E 1 et seq. Remediation projects that are on-going or that begin within 180 days of enactment of the Law are not required to be conducted by an LSRP. However, all remediation projects will need to be conducted by an LSRP after the third anniversary of enactment of the Law.

The level of coordination between the LSRP and the DEP depends on various factors, such as the history of compliance, the contamination present, natural resources impacted and the ranking of the individual site. The more complex the site, the higher the degree of involvement DEP will have with the LSRP. However, it is unclear as to the timing of DEP's decision to retain jurisdiction or delegate it to the LSRP. Pursuant to Executive Order #140, by July 6, 2009, DEP shall develop guidelines to address this concern.

The Law is designed to streamline the DEP's review of environmental reports, so that transactions are not delayed due to the lack of responsiveness from the DEP. We shall see whether New Jersey can join

states like Connecticut and Massachusetts, which run effective LSRP programs.

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