

In a Nutshell: Environmental Amendments to NJ Site Investigation and Remediation Law



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The 2009 Site Remediation Reform Act, SRRA, established New Jersey’s Licensed Site Remediation Professional program, LSRP, which largely privatized oversight of environmental remediation projects. On Aug. 23, 2019, Gov. Phil Murphy signed legislation that amended the SRRA and related environmental laws to address some of the lessons learned in the past 10 years. These amendments mark the first set of major changes to the law. Several notable amendments include:



Definitions

- **“Remediation” under ISRA.** The definition of “Remediation” under the New Jersey Industrial Site Recovery Act is amended to be consistent with SRRA by explicitly excluding the payment of compensation for damage to, or loss of, natural resources.
- **Addition of “Retained” under SRRA.** “Retained” is now included as a defined term under SRRA to mean “hired, individually or through a firm or other person, by or on behalf of a person responsible for conducting remediation, to perform, manage, or supervise remediation or to periodically review and evaluate a remediation performed by other persons.” Use of the term “retained” now replaces “hired” throughout SRRA.
- **Immediate Environmental Concern.** The definition of Immediate Environmental Concern, IEC, is revised to include confirmed contamination that has migrated into “structures.” A new section added to SRRA, however, gives an LSRP the professional discretion to determine that no further remediation is required relative to an IEC if located in an unoccupied structure.

- Legal Actions Against LSRPs.** LSRPs are now included within the definition of “licensed persons,” which places more formal requirements, including an Affidavit of Merit, on plaintiffs when bringing a malpractice suit against an LSRP.

Notice

- LSRP Notification Obligations.** An LSRP is now required to notify the person responsible for a remediation and the NJDEP if the LSRP obtains “specific knowledge” of an IEC at *any* location on a site. This notification is not limited to the location on the site for which the LSRP is retained.

- Municipality Notice Requirement.** Notice of remediation activity must now be given to municipalities and counties in which the site is located prior to the initiation of a remedial *investigation*. This notice was previously required to occur prior to initiation of the actual remediation action.

- Response to Public Inquiry.** Public notice requirements under the Brownfield and Contaminated Site Remediation Act are amended by placing more specific requirements on responsible parties and LSRPs on how to respond to public inquiries concerning the status of a remediation project.

Remediation Funding

- Certain amendments are made to the process for when and how remediation funding sources may be used, dispersed and released.

- Surety bonds are now an option for funding a remediation and as a form of financial assurance.

LSRP Oversight

- The amendments clarify that a non-LSRP shall not perform a remediation unless the remediation is “managed, supervised, or periodically reviewed and evaluated by a [LSRP]”.

Direct Oversight by NJDEP

- The amendments include limiting factors for when NJDEP takes on direct oversight of a contaminated site. Specifically, NJDEP will not undertake direct oversight where a person is unable to access a site despite taking all appropriate and timely actions to do so.

- When direct oversight does occur, such oversight “shall run with the site.” However, NJDEP may modify direct oversight requirements where a person responsible for conducting the remediation can demonstrate financial hardship or instances of public emergency, or where NJDEP determines modification “is



in the public interest and protective of public health and safety and the environment.”

- NJDEP may also enter into Administrative Consent Orders with prospective purchasers providing for the modification of direct oversight, with certain specified exceptions.

As noted, “SRRRA 2.0” makes numerous amendments to SRRRA and associated laws that modify requirements placed on companies and individuals responsible for remediating sites in New Jersey. A copy of the bill is available [here](#).

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For more information on these amendments and how they may impact your environmental remediation project, please contact the Environmental Law Group at McCusker, Anselmi, Rosen & Carvelli, P.C., Florham Park, NJ, www.marc.law.