

# Remedial Investigation Deadline Is Extended!

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On January 21, 2014, Governor Christie signed into law legislation allowing a two-year extension to complete remedial investigations at sites where remediation was triggered prior to May 7, 1999. These sites had been required to complete the remedial investigation (RI), and submit the RI Report before a May 7, 2014 statutory deadline.

## How does this legislation affect you?

If you are the Responsible Party (RP) and triggered a remedial action prior to May 7, 1999, you were previously required to complete the RI and submit a RI Report before May 7, 2014. If you have completed the RI and submitted the RI Report, you are already in compliance. If you have completed the investigation and intend to submit the RI Report before May 7, 2014, then you are on the right track to comply with the RI deadline. ESA suggests that you continue in this fashion.

In order to be considered in compliance with the RI requirements, the horizontal and/or vertical delineation of *all* impacts in *all* media is required. If you are having difficulty completing the RI, or the RI Report will not be finished before May 7, 2014, then you should consider filing for an extension.

## Do you qualify for an extension?

There are a series of conditions and submissions required prior to March 7, 2014 in order for you to qualify for the RI extension:

1. You must certify that you have retained a Licensed Site Remediation Professional (LSRP). The LSRP will ensure that the application is complete;
2. You must have met any applicable mandatory deadlines at the time of the certification. This can be evaluated by the LSRP based on your site-specific situation;
3. Certain submissions will have been required based on conditions at your site. If applicable, a technically complete Receptor Evaluation, Immediate Environmental Concern source control report, Light Non-Aqueous Phase Liquid interim remedial measure control report, Preliminary Assessment (PA) Report, or Site Investigation (SI) Report, will have needed to have been submitted to the New Jersey Department of Environmental Protection (NJDEP);

4. You will need to establish a remediation funding source, if required under the Industrial Site Recovery Act (ISRA), or, if not, a remediation trust fund for the estimated cost of the RI will need to be established; and,
5. The NJDEP requires the submission of certain fees. The LSRP can evaluate these fees and determine the costs that need to be paid now. Any undisputed NJDEP oversight fees, any applicable annual remediation fees, or any remediation funding source surcharges will be required to have been submitted.

The NJDEP deems the application approved when the application is received by the NJDEP.

### **What happens if you do not apply for an extension?**

If your RI will not be completed before the May 7, 2014 deadline, and you do not apply for an extension, then in accordance with the Site Remediation Reform Act (SRRA), you will be subject to the direct oversight provisions of the SRRA. This means you will lose control of your RI, and the NJDEP will oversee all RI activities. This complicates remediation, and increases considerably the costs associated with the RI.

### **Should you apply for the extension even if you plan to meet the original May 7, 2014 deadline?**

There are several factors to consider before answering this question. Your LSRP can help you render this evaluation:

First...are you certain the RI will be complete? If there is any chance that the delineation of all impacts will not be finished in time to submit the RI Report before the May 7, 2014 deadline, you may want to apply for the extension.

Second...if there is a chance that the NJDEP will not agree that delineation is complete, you may want to apply for the extension.

Third...because submission of a compliant application may negate previously missed mandatory deadlines (if applicable) you may want to apply for the extension as a preemptive measure.

Please call Andreas Eisenberger at 732-469-8888 x205 if you have any questions about this very important compliance matter. Alternatively, you can call Stephen Fauer at 732-469-8888 x201 if you have any questions.

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