



NJDEP Modifies Certain Site Remediation Rules Due to COVID-19

Legal Blogs and Updates

By Ryan Benson and Agnes Antonian on 04.27.2020 | Posted in Environmental

On April 24, 2020, the New Jersey Department of Environmental Protection (NJDEP) adopted a [Temporary Rule Modification](#) (the Modification) affecting its Administrative Requirements for the Remediation of Contaminated Sites (ARRCS) and its Technical Requirements for Site Remediation (Technical Requirements). As the Modification explains, the Governor's executive orders requiring social distancing may impact the ability to perform site remediation activities. The NJDEP Commissioner is therefore:

Extending Certain Remediation-Related Timeframes. NJDEP is extending certain mandatory remediation timeframes, expedited site-specific remediation timeframes, regulatory timeframes, and regulatory remedial action timeframes by 90 days. The list of specific provisions affected can be found in the Modification. Parties responsible for conducting remediation may also request further extension of these or other remediation-related timeframes. Such requests will be considered on a case-by-case, site-specific basis.

Authorizing Waiver/Suspension/Relaxation of Other ARRCS or Technical Requirements. With the exception of the above timeframe extensions, the Commissioner has authorized NJDEP to waive, suspend, modify or relax any provision of the ARRCS or Technical Requirements on a case-by-case and site-specific basis. To do so, NJDEP must find that such action is:

1. *Necessary to ensure the continued management of remediation activities and the services that support the same;*
2. *Narrowly tailored to include only those regulatory modifications necessary to address circumstances created by or directly related to the COVID-19 pandemic;*
3. *Applied consistently to similar situated entities and individuals; and*
4. *Limited to the period [in] which [Executive Order] 103 is in effect.*

Posting Relevant Notices. NJDEP will post on its website notices of regulatory changes made pursuant to the Modification.

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The Modification is retroactive to March 9, 2020. Unless revoked or modified by the Commissioner, it will remain in effect until the expiration or revocation of Executive Order 103, the order that instituted the current State of Emergency as a result of COVID-19.

Connell Foley will continue to monitor the situation and provide updates as necessary.



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