Under the Site Remediation Reform Act of 2009 (“SRRA”), N.J.S.A. §§ 58:10C-1 to 58:10C-29, a party responsible for conducting the remediation of a contaminated site must comply with certain mandatory remediation timeframes, as established by the New Jersey Department of Environmental Protection (“NJDEP”).

Although “mandatory,” NJDEP may grant an extension of such timeframes “on a case-by-case basis as a result of”: (1) “a delay in obtaining access to property, provided the person responsible for conducting the remediation demonstrates that good faith efforts have been undertaken to gain access, access has not been granted by the property owner, and, after good faith efforts have been exhausted, a complaint was filed with the Superior Court to gain access, in accordance with applicable rules and regulations”; (2) “other circumstances beyond the control of the person responsible for conducting the remediation, such as fire, flood, riot, or strike”; or (3) “other site-specific circumstances that may warrant an extension as determined by the department,” N.J.S.A. § 58:10C-28(d), which includes, but is not limited to, “[t]he fact that the person is an owner of a small business who can demonstrate to the NJDEP’s satisfaction that he or she does not have sufficient monetary resources to meet the mandatory remediation or expedited site specific timeframe,” N.J.A.C. §
Relief may also be possible even if a delay in meeting mandatory or expedited site-specific timeframes or other conditions has already occurred, and as a result, NJDEP has undertaken direct oversight of the site remediation. N.J.S.A. § 58:10C-27. If the delay was due to “a public emergency, as declared by the Governor or the President of the United States, or an official authorized to act on their behalf,” NJDEP “may modify the direct oversight requirements” under N.J.S.A. § 58:10C-27(c). N.J.S.A. § 58:10C-27(g).

If the progress of your site remediation has been delayed as a result of Coronavirus and the related public health concerns, you may be eligible for an extension by NJDEP.

This post contains contributions from Linda Lee.

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