

September 2 Deadline for Public Notice on Remediated Sites

Legal Alert

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Parties responsible for contaminated sites must give public notice of remedial activities by September 2, 2009. New Jersey Department of Environmental Protection (NJDEP) now requires public notification to people within 200 feet of contaminated sites that are being remediated.

Last year, NJDEP amended the Technical Requirements for Site Remediation ("Tech Regs"), N.J.A.C. 7:26E, to require the person responsible for conducting the remediation of a contaminated site to perform public notification and outreach at the onset of the remedial investigation phase. The one-year grace period for old sites is now over and the new notification rule applies to all sites being remediated.

The new notification rule, N.J.A.C. 7:26E-1.4(g), provides two options for public notification: posting a sign at the site or sending periodic notification letters to owners and tenants within 200 feet of the site boundary. The rules set forth specific requirements for both the signs and the letters. For example, the rules regulate the size of the signs, the wording of the signs and the duration the signs must be displayed. Likewise, the rules regulate the timing of the letters, the information provided in the letters, how the letters are sent and the people and entities that must receive the letters. Notification by sign or by letter must be in English and in any other language that is predominantly spoken in the area. In addition, the rules require notification to state and local agencies and to the local municipality.

The new notification rules also require identification of sensitive populations and resources located within 200 feet of the site boundary. Sensitive populations and resources include residences, schools, child care centers, public parks, playgrounds, surface waters, drinking-water wells and priority well-head protection areas.

If contamination spreads off-site, the responsible party must prepare a detailed fact sheet, distribute it to the community and publish it in a local newspaper. The NJDEP will require additional, community-specific public outreach when residents or local officials demonstrate significant public interest through a petition to the NJDEP or when the NJDEP receives a written request from a local official.

Notification for all sites involved in remediation must occur before September 2, 2009. The notification requirements are triggered at the site investigation stage, before any remediation activities are performed. Non-compliance will likely cause delays in the remediation process and may result in fines.

This Client Alert contains just a brief summary of the law and does not purport to address or comment upon all aspects of waste disposal. For more information or if you have any questions, please contact any member of the Flaster Greenberg Environmental Department.