

New Jersey Enacts Stringent A-901 Licensing Requirements for Soil and Recycle Fill Providers to Protect Against "Dirty Dirt"

In an effort to crack down on the unlawful dumping of contaminated soil and debris - often referred to as "dirty dirt" - New Jersey Governor Phil Murphy has signed a new law amending the state's A-901 solid waste licensing law to impose new registration, licensing, and extensive background check requirements on all individuals or businesses providing "soil and fill recycling services." Providers that already have an A-901 license for solid waste services can rely on that existing license for soil and recycled fill. Builders, developers, and homeowners in need of soil or recycled fill will be restricted to using suppliers who have passed a background check and obtained the necessary license from New Jersey's Department of Environmental Protection (DEP).

This amendment to the A-901 law, enacted on January 21, 2020, has its origin in a 2011 State Commission of Investigation report that found the unlawful dumping of contaminated soil and debris under the façade of recycled materials to be a regular practice. The intent is to root out bad actors engaged in soil and fill recycling services by subjecting them to the longstanding and comprehensive regulatory oversight registration program applicable to the solid waste industry.

Under the amended law, "soil and fill recycling services" is defined as "the collection, transportation, processing, brokering, storage, purchase, sale or disposition of soil and fill recyclable material." "Soil and fill recycling services materials" is defined as "non-putrescible aggregate substitutes," such as "broken or crushed brick, block, concrete, or other similar manufactured materials; soil or soil that may contain aggregate substitute or other debris or material, generated from land clearing, excavation, demolition, or redevelopment activities that would otherwise be managed as solid waste, and that may be returned to the economic mainstream in the form of raw materials for further processing or for use as fill material."

"Soil and fill recyclable materials" does not include: (1) Class A recyclable material; (2) Class B recyclable material, that is shipped to a Class B recycling center approved by the DEP for receipt, storage, processing, or transfer; (3) beneficial use material for which the generator has obtained prior approval from the DEP to transport to an approved and designated destination, and (4) virgin quarry products including, but not limited to, rock, stone, gravel, sand, clay and other mined products.

The amended A-901 law provides a set of **deadlines for complying** with the new registration and licensing requirements, as follows:

It should also be noted that the amended A-901 law:

It is important that businesses and individuals providing "soil and fill recycling services" take steps to satisfy the temporary registration process by April 20, 2020 and otherwise familiarize themselves with the comprehensive requirements of the amended A-901 law. The changes outlined in this Alert have been long-awaited and we expect that they will be vigorously enforced. For additional information regarding the new registration and licensing requirements for soil and recycle fill providers, please contact the authors of this Alert, **Barbara J.**

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