

## ISRA & Other Transaction-Triggered Environmental Laws

New Jersey's unique transaction-triggered environmental law, the Industrial Site Recovery Act (ISRA), is designed to ensure that a wide array of commercial and industrial properties are investigated, addressed and cleaned up, primarily at the time of property or business sale or transfer, or cessation of operations at the affected property. The firm's environmental team, deeply versed in transaction-triggered environmental laws including ISRA, counsels clients on the unique compliance requirements associated with these laws, providing essential guidance to ensure seamless transactions to prevent costly delays and, where possible, avoid client entanglement in environmental liabilities for which they are not already responsible.

ISRA compliance is often complex and typically requires the involvement of a class of specially authorized environmental consultants known as Licensed Site Remediation Professionals (LSRPs) to achieve regulatory closure.

Our services related to ISRA, and other transaction-triggered environmental laws begin with determining potential applicability of ISRA to particular business events. If ISRA is triggered and we are representing the triggering party, we develop compliance and process management strategies to guide clients through the entire remediation process, working closely with LSRPs to conduct a preliminary assessment (PA) and site investigation (SI), and if contamination is discovered a remedial investigation (RI) and remedial action (RA). This process works towards the issuance of a Response Action Outcome (RAO) by the LSRP, which certifies that the remediation is complete and satisfies ISRA obligations, allowing the transaction to proceed. Such RAOs also carry with them requirements for post-RAO permits that guide continuing post-closure environmental responsibilities if contaminants remain in soil and groundwater.

When representing the purchasers of ISRA-subject sites, we likewise assess compliance responsibilities and assure that the responsible ISRA-triggering party proceeds through the process in an appropriate manner. We typically work with environmental consultants in our assessment process.

We draft and negotiate robust environmental provisions within purchase and sale agreements, leases, and other transactional documents to address ISRA obligations. We draft and negotiate environmental service agreements with LSRPs and other environmental consulting professionals and contractors. Our attorneys also assist clients in exploring and applying for various ISRA waivers and exemptions, which can significantly streamline or eliminate

the need for full ISRA compliance.

For the many cleanups that require that a remediation funding source be posted in favor of NJDEP to assure compliance with cleanup obligations, we advise on the various options to satisfy this requirement, such as fully funded trusts, letters of credit, surety bonds, self-insurance or environmental insurance policies, and work with financial institutions that issue such financial instruments. Likewise, where financial assurances must be posted in favor of NJDEP to assure compliance with post-RAO permits, we advise and assist on establishing the requisite assurances.

## Practice Team

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