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New Groundwater Quality Standards adopted by New Jersey Department of Environmental Protection

The New Jersey Department of Environmental Protection (NJDEP) has adopted revisions to its Groundwater Quality Standards (GWQS) that are anticipated to affect ongoing remediation projects and certain sites that have already been issued final remediation documents. These amendments include revised GWQS that, in most cases, impose more stringent limits and introduce new standards for two constituents that were previously regulated through interim standards adopted by the NJDEP.

Key Updates:

- **Revised Groundwater Standards for 64 Constituents:**
  - **Fifty standards have become more stringent**, including seven that have decreased by an order of magnitude or more.
  - **Twelve standards have become less stringent**, which could assist in demonstrating compliance in certain cases.
  - **Two new standards** have been established for contaminants previously regulated under interim generic criteria adopted by the NJDEP: 4-chloro-3-methylphenol and dimethyl phthalate.
- **New Compliance Considerations:**
  - **Remediation plans may require reassessment:** Open site remediation cases with contamination levels previously within compliance may now exceed the updated limits, triggering the need for additional investigation, remediation or alternative strategies.
  - **Potential reopeners:** The GWQS for seven constituents – 1,1-biphenyl; cobalt; cyanide; 1,3-dichlorobenzene (meta); heptachlor epoxide; methoxychlor; and vinyl chloride – are more stringent by one or more orders of magnitude. Therefore, sites that have institutional and/or engineering controls as well as sites that reenter the Site Remediation Program may require additional investigation or remediation for these constituents to comply with the new GWQS.
  - **Potential impact on site transactions:** The more stringent standards could influence due diligence evaluations, lender requirements and overall property valuation.
  - **Laboratory and analytical challenges:** Meeting new detection limits may require enhanced testing methods, which could increase costs and turnaround times.

The NJDEP has provided a six-month transition period to allow sites to demonstrate compliance using the prior standards, provided that (1) a remedial action work plan or report is submitted no later than six months after the effective date of the updated standard, (2) the remedial action work plan or report is approved by the department or certified by a licensed site remediation professional, (3) the remediation standard specified in the remedial action work plan or report for a given

contaminant is not greater by an order of magnitude than the updated remediation standard, and (4) the remedial action complies with the applicable regulatory time frames pursuant to the technical requirements for site remediation.

Next Steps

Whether your site is undergoing remediation, you have a final remediation document or a groundwater remedial action permit, or you are involved in a pending property transaction, we strongly recommend evaluating how these new standards may impact your project. Day Pitney's environmental team is available to assist you with evaluating how these new standards apply to your project and to provide guidance with remediation strategy and regulatory compliance.

Please reach out with any questions or to discuss how these changes may affect your business.

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