



## LEGAL Q&A

**Q** With the privatization of the Site Remediation Program in New Jersey, is there nonetheless an opportunity for responsible parties to obtain an "alternative cleanup remedy?"

**A** Yes. NJDEP has developed "Presumptive Remedies", which are, in essence, preferred remedies narrowly tailored to address a particular cleanup strategy and remediation goal. Childcare centers, schools and certain types of residential communities may have different remediation goals than hybrid uses, commercial enterprises or other operations. With prior approval from NJDEP, responsible parties may implement an alternative remedy. The party must submit an application to NJDEP explaining the nature of the remedy and the basis for deeming the presumptive remedy "impractical" or how "the alternative remedy would be equally protective over time as the presumptive remedy". Applications for alternative remedies must also include a detailed description of specifications for "engineering and institutional controls", monitoring and maintenance. NJDEP will also consider factors such as: steep slopes or "unsuitable sub soils", proximity to wetlands, the need for excavation "near or beneath structures" and the need for de-watering.

The State's approach to presumptive remedies gives guidance. The availability of alternative remedies presents flexibility and allows developers and responsible parties to be innovative and cost effective.



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